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Human Rights Council
Twenty-ninth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by the National Congress of American Indians, Native American Rights Fund, non-governmental organizations in special consultative status, Indian Law Resource Centre, a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-11376 (E)
1511376

Please recycle

Combating Violence against Indigenous Women by Implementing Decisions of the World Conference on Indigenous Peoples*

The UN Declaration on the Rights of Indigenous Peoples is a significant affirmation of the rights of indigenous women, youth, and children, including full protection and guarantees against all forms of violence and discrimination. Yet, the situation is dire for indigenous women and girls who are particularly vulnerable to human trafficking[1] and often suffer from multiple forms of discrimination and disproportionate violence and murder because of their gender and because they are indigenous and members of indigenous communities.[2] In 2011, the Special Rapporteur reported that violence against Native American women exceeds that of any other population in the United States.[3] American Indian and Alaska Native women are 2.5 times more likely to be sexually assaulted or raped than other women in the United States. The murder rate for some Native women is ten times the national average. In Alaska Native villages, "[w]omen have reported rates of domestic violence up to 10 times higher than in the rest of the United States and physical assault victimization rates up to 12 times higher."[4] To address the extreme situation of violence against indigenous women worldwide, consistent, dedicated attention to the rights of indigenous women and girls is urgently needed on an accelerated basis. The World Conference on Indigenous Peoples' outcome document contains decisions for implementing the UN Declaration that are crucial for protecting indigenous women. We offer modest, workable recommendations for putting these decisions into effect to prevent and eliminate violence against indigenous women and girls everywhere.

Violence against women is widespread,[5] a form of discrimination,[6] and "one of the most pervasive violations of human rights."[7] "Violence against women is a human rights violation that precludes the realization of all other human rights,"[8] causing international experts to call on UN member states to strengthen their legal frameworks on the rights of women and policies addressing violence against indigenous women.[9] Council Resolution 6/30 reaffirms the need to implement fully the human rights of women in all aspects of the work of the United Nations, including conferences such as the 2014 World Conference on Indigenous Peoples and their outcome documents.[10] Council

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[1] United Nations Economic and Social Council, Permanent Forum on Indigenous Issues, *Study on the extent of violence against indigenous women and girls in terms of article 22(2) of the United Nations Declaration on the Rights of Indigenous Peoples*, E/C.19/2013/9 (Feb. 12, 2013).

[2] United Nations Economic and Social Council, Permanent Forum on Indigenous Issues, *Study on the extent of violence against indigenous women and girls in terms of article 22(2) of the United Nations Declaration on the Rights of Indigenous Peoples*, E/C.19/2013/9 (Feb. 12, 2013).

[3] *Report of the Special Rapporteur on violence against Women, its causes and consequences, Ms. Rashida Manjoo, Addendum, Mission to the United States of America.* A/HRC/17/26/Add.5 (June 6, 2011).

[4] *A Roadmap for Making Native America Safer, A Report to the President and Congress of the United States*, Chapter 2, Reforming Justice for Alaska Natives, p. 41 (November 2013).

[5] *Statement by Ms. Rashida Manjoo, Special Rapporteur on Violence against women, its causes and consequences*, 59th Session, Commission on the Status of Women (March 9, 2015).

[6] United Nations Division for the Advancement of Women, *Background Paper for the Expert Group Meeting on Good Practices in Legislation on Violence Against Women*, U.N. Doc. EGM/GPLVAW/2008/BP.01 (May 2008), 3. UN Permanent Forum on Indigenous Issues, *Study on the extent of violence against indigenous women and girls in terms of article 22(2) of the United Nations Declaration on the Rights of Indigenous Peoples*, E/C.19/2013/1 (Feb. 12, 2013), 2.

[7] *Statement by the UN High Commissioner for Human Rights, Navi Pillay, on International Women's Day: Violence against women* (March 8, 2013).

[8] *Violence against women – Joint Press Release by UN and IACHR Rapporteurs*. Trinidad (28 April 2015). http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15939&LangID=E .

[9] United Nations Economic and Social Council, Permanent Forum on Indigenous Issues, *Combating Violence against Indigenous Women and Girls: Article 22 of the United Nations Declaration on the Rights of Indigenous Peoples*, E/C.19/2012/6 (Feb. 2012), 13. *See also Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo*, A/HRC/23/49 (May 2013).

[10] A/RES/69/2.

Resolutions 23/25 and 26/15 also recognize the urgent need to *accelerate* efforts to eliminate all forms of violence against women.

Recommendations for implementing key decisions of the World Conference

Article 22(2) of the UN Declaration directs states, in conjunction with indigenous peoples, to take measures to protect indigenous women and children against violence and discrimination. Similar to Council Resolution 6/30's call to integrate a gender perspective into all UN work, Article 22(1) urges states to pay particular attention to the rights and special needs of indigenous women and children in implementing the UN Declaration. The World Conference on Indigenous Peoples resulted in an outcome document containing key decisions crucial for protecting indigenous women. In paragraphs 17 and 18, states commit to support the empowerment of indigenous women and to intensify efforts to prevent and eliminate violence and discrimination against women by strengthening legal, policy, and institutional frameworks. In paragraphs 28, 31, and 40, states request further action by UN bodies, including consideration of an implementing body for the UN Declaration; development of a system-wide action plan by the Secretary-General to realize the ends of the UN Declaration; and the adoption of rules to enhance the participation of indigenous peoples' governments at the UN.

We recommend that the implementing body and the system-wide action plan pay particular attention to the rights of indigenous women and children, in order to ensure their full protection from all forms of violence and discrimination. Moreover, the implementing body must have a broad mandate with innovative elements to effectively promote, implement, and monitor states' compliance with the Declaration. The body should have authority to: gather and receive information from all sources; make country visits; conduct studies; write reports and recommendations; make general observations; share information about best practices; issue interpretations of the Declaration; take friendly measures to resolve conflicts through consensual solutions; and collaborate with other special mandate holders. The body should be balanced, with a sufficient number of independent experts – indigenous and non-indigenous – selected by both states and indigenous peoples' representative institutions. The implementing body should enhance, not duplicate, the important work of existing special procedures like the Permanent Forum and Special Rapporteurs. In response to the growing crisis posed by widespread violence against women, this Special Rapporteur has recommended the adoption of a binding international instrument on violence against women and girls.[11] The implementing body for the UN Declaration that we are recommending could serve as an important complementary body with necessary expertise on addressing violence against indigenous women and girls.

In paragraph 33 of the outcome document, states commit to consider, during the 70th session of the General Assembly, ways to enable the participation of indigenous peoples' representatives and institutions (governments) in meetings of relevant UN bodies on issues affecting them, including proposals made by the Secretary-General's report on the matter as requested in paragraph 40. We recommend the adoption of new rules by the General Assembly or other appropriate body to give indigenous governments greater rights of participation within the UN and a new status that respects them as rights-holders and global actors.

In paragraph 19, states request the Commission on the Status of Women to consider the empowerment of indigenous women and the Human Rights Council to consider examining the causes and consequences of violence against indigenous women and girls. To this end, we recommend:

1. The Commission on the Status of Women should designate the empowerment of indigenous women as an emerging issue for consideration at its next session in 2016; and
2. This Council should decide to:
   a. Hold a panel discussion to examine the causes and consequences of violence against indigenous women and girls during its annual discussion on the rights of women; and

[11] *Statement by Ms. Rashida Manjoo, Special Rapporteur on Violence against women, its causes and consequences,* 59th Session, Commission on the Status of Women (March 9, 2015).

b. Request a research-based report from the Secretary-General on the issue of violence against indigenous women and girls, including recommendations to the Human Rights Council to enhance the mandates of its existing special procedures and to request regular joint reports on the issue, perhaps on a regional basis.

These recommendations enjoy the support of 90 indigenous nations in the Americas and 21 indigenous organizations. We urge your consideration and support of these modest and workable recommendations.

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*Alliance of Tribal Coalitions To End Violence; California Association of Tribal Governments; Central Council of Tlingit Haida Indian Tribes of Alaska; Mending the Sacred Hoop; National Indigenous Women's Resource Center; Strong Hearted Native Women's Coalition, Inc.; Uniting Three Fires Against Violence; and WomenSpirit Coalition. NGO(s) without consultative status, also share the views expressed in this statement.

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[22 May 2015]

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Please recycle

Combating Violence against Indigenous Women*

Violence against women is widespread,[1] and international and regional bodies and experts recognize violence against women as both a human rights violation and a form of discrimination.[2] Many universal and regional human rights treaties set out rights critical to the protection of women from violence, including rights to life, liberty, and security of the person; to be free from torture and from cruel, inhumane, or degrading treatment or punishment; to be free from slavery and servitude; and to equal protection of the law.[3] Despite these protections, the UN High Commissioner for Human Rights stated that "violence against women is one of the most pervasive violations of human rights."[4] International experts have stated that "[v]iolence against women is a human rights violation that precludes the realization of all other human rights"[5] and called on UN member states to strengthen their legal frameworks on the rights of women and, more specifically, their policies addressing violence against indigenous women and girls.[6] These experts also encourage "greater coordination among UN agencies, including with states and indigenous peoples, on the issue of violence against indigenous women and girls and the implementation of inter-agency programmes on these issues."[7]

Council Resolution 6/30 reaffirms the need to fully implement the human rights of women in all aspects of the work of the United Nations, including the treaty bodies, this Council, and its various mechanisms, and stresses the need to integrate women's human rights into all UN activities, including conferences such as the 2014 World Conference on Indigenous Peoples and their outcome documents.[8] Importantly, Council Resolutions 23/25 and 26/15 recognize the urgent need to *accelerate* efforts to eliminate all forms of violence against women.

Dedicated attention to the rights of indigenous women and girls is absolutely essential because their situation is so dire. This Council has recognized in its Resolution 26/15 that indigenous women often suffer multiple forms of discrimination, and disproportionate rates of violence and murder because of their gender, and because they are indigenous and members of indigenous peoples and communities.[9] Indigenous women and youth are particularly

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[1] *Statement by Ms. Rashida Manjoo, Special Rapporteur on Violence against women, its causes and consequences,* 59th Session, Commission on the Status of Women (March 9, 2015).

[2] United Nations Division for the Advancement of Women, *Background Paper for the Expert Group Meeting on Good Practices in Legislation on Violence Against Women*, U.N. Doc. EGM/GPLVAW/2008/BP.01 (May 2008), 3. Violence is a form of discrimination as it inhibits the ability of women to enjoy rights on a basis of equality with men. UN Permanent Forum on Indigenous Issues, *Study on the extent of violence against indigenous women and girls in terms of article 22(2) of the United Nations Declaration on the Rights of Indigenous Peoples*, E/C.19/2013/1 (Feb. 12, 2013), 2.

[3] United Nations General Assembly, Report of the Secretary General, *In-depth Study on All Forms of Violence Against Women*, U.N. Doc.A/61/122/Add.1 (2006), at ¶ 243. *See also* The Convention on the Elimination of All Forms of Discrimination against Women, the Declaration on the Elimination of Violence against Women and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women ("Convention of Belém do Pará").

[4] *Statement by the UN High Commissioner for Human Rights, Navi Pillay, on International Women's Day: Violence against women* (March 8, 2013).

[5] *Violence against women – Joint Press Release by UN and IACHR Rapporteurs*. Trinidad (28 April 2015). http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15939&LangID=E

[6] United Nations Economic and Social Council, Permanent Forum on Indigenous Issues, *Combating Violence against Indigenous Women and Girls: Article 22 of the United Nations Declaration on the Rights of Indigenous Peoples*, E/C.19/2012/6 (Feb. 2012), 13. Recently, the Special Rapporteur on violence against women emphasized the need for a more forceful, legally binding framework on violence against women. *Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo*, A/HRC/23/49 (May 2013).

[7] United Nations Economic and Social Council, Permanent Forum on Indigenous Issues, *Combating Violence against Indigenous Women and Girls: Article 22 of the United Nations Declaration on the Rights of Indigenous Peoples*, E/C.19/2012/6 (Feb. 2012), 15; see also United Nations Economic and Social Council, Permanent Forum on Indigenous Issues, *Study on the extent of violence against indigenous women and girls in terms of article 22(2) of the United Nations Declaration on the Rights of Indigenous Peoples*, E/C.19/2013/9 (Feb. 12, 2013).

[8] A/RES/69/2.

[9] United Nations Economic and Social Council, Permanent Forum on Indigenous Issues, *Study on the extent of violence against indigenous women and girls in terms of article 22(2) of the United Nations Declaration on the Rights of Indigenous Peoples*, E/C.19/2013/9 (Feb. 12, 2013).

vulnerable to human trafficking.[10] In the United States, one in three Indian and Alaska Native women will be raped in her lifetime, and six in ten will be physically assaulted, making them 2.5 times more likely to be sexually assaulted or raped than women in the United States generally. On some reservations, the murder rate for Native women is ten times the national average. The situation is even more severe for Alaska Native women in tribal villages, where "[w]omen have reported rates of domestic violence up to 10 times higher than in the rest of the United States and physical assault victimization rates up to 12 times higher."[11] Elsewhere in the world, the situation for indigenous women can be worse.

The UN Declaration on the Rights of Indigenous Peoples affirms the rights and special needs of indigenous women and children. Article 22(2) directs states, in conjunction with indigenous peoples, to take measures to protect indigenous women and children against violence and discrimination. Similar to Resolution 6/30's call to integrate a gender perspective into all UN policies and programmes, Article 22(1) urges states to pay particular attention to the rights and special needs of indigenous women, youth, and children in implementing all provisions of the UN Declaration.

The World Conference on Indigenous Peoples' outcome document furthers implementation of the UN Declaration on the Rights of Indigenous Peoples. In paragraphs 17 and 18, states commit to supporting the empowerment of indigenous women and to intensifying efforts to prevent and eliminate violence and discrimination against women by strengthening legal, policy, and institutional frameworks. In paragraphs 28, 31, and 40, states request further action by UN bodies, including consideration of an implementing body for the UN Declaration and development of a system-wide action plan by the Secretary-General to realize the ends of the UN Declaration. We recommend that both the implementing body and the system-wide action plan pay particular attention to the rights of indigenous women and children, in order to ensure their full protection from all forms of violence and discrimination. Finally, in paragraph 19, states request the Commission on the Status of Women to consider the empowerment of indigenous women and the Human Rights Council to consider examining the causes and consequences of violence against indigenous women and girls. To this end, we recommend the following:

1. The Commission on the Status of Women should designate the empowerment of indigenous women as an emerging issue for consideration at its next session in 2016; and
2. This Council should decide to:
    a. Hold a panel discussion to examine the causes and consequences of violence against indigenous women and girls during its annual discussion on the rights of women: and
    b. Request a research-based report from the Secretary-General on the issue of violence against indigenous women and girls, including recommendations to the Human Rights Council to enhance the mandates of its existing special procedures and to request regular joint reports on the issue, perhaps on a regional basis.

Any such reviews or discussions by the Council or the Commission should of course be conducted in consultation and cooperation with indigenous peoples, including indigenous women.

Violence against indigenous women and girls is a pandemic and a global outrage. These recommendations will help fight this scourge; they are consistent with Resolution 6/30 and they will further the realization of the rights of indigenous peoples affirmed in the UN Declaration. We urge the Council to not only support these recommendations, but also to accelerate actions aimed at eliminating all forms of violence and discrimination against indigenous women everywhere.

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*Alliance of Tribal Coalitions To End Violence; California Association of Tribal Governments; Central Council of Tlingit Haida Indian Tribes of Alaska; Mending the Sacred Hoop; National Indigenous Women's Resource Center;

[10] *Id.*

[11] *A Roadmap for Making Native America Safer, A Report to the President and Congress of the United States*, Chapter 2, Reforming Justice for Alaska Natives, p. 41 (November 2013).

Strong Hearted Native Women's Coalition, Inc.; Uniting Three Fires Against Violence; and WomenSpirit Coalition. NGOs without consultative status, also share the views expressed in this statement.

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Human rights situations that require the Council's attention

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[23 May 2015]

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Please recycle

Yemeni People Are Deprived of their Human Rights

According to Yemen Ministry of Health, the first month of heavy bombardments in Yemen resulted in over 4100 Yemeni casualties, including 115 children according to UNICEF. Also, according to the World Health Organization over 254,000 others including women and children are being displaced, and there are fears over the forced displacement of millions of other Yemenis while many of them lose their lives in the sea trying to escape their conflicted homeland. Airstrikes launched in and around Yemen's capital Sanaa, targeted bazaars, schools and hospitals leaving many civilian people killed and injured. In the ongoing conflicts dozens of people are losing their lives every day. For example, Airstrikes by the Saudi Arabia-led coalition that hit a dairy factory in Yemen on March 31, 2015, killed at least 31 civilians and wounded another 11.1 Also, on May 1st 2015, Warplanes from a Saudi-led coalition struck a residential district of the Yemeni capital Sanaa overnight, killing eight to 10 civilian residents. The Saba state news agency, controlled by the Houthi movement, announced that the airstrike have caused 20 deaths and made more than 50 people including woman and children injured.2

Saudi Arabia is also accused of dropping U.S.-supplied cluster bombs in the fight against Houthi rebels in Yemen. The small bombs, if unexploded, can lay dormant and then blow out when people stumble upon them by chance, killing or maiming them as a result.

Saudi-led cluster airstrikes have been hitting areas near villages, putting local people in danger while according to international law these weapons should never be used under any circumstances and according to The Convention on Cluster Munitions (CCM) the use, transfer and stockpile of cluster bombs is prohibited.

Hospitals in Yemen are struggling to cope with a stream of patients mostly victims of the violence that has gripped the country. They are facing an unprecedented shortage of medicine and qualified staff. There is not enough space to receive injured civilians and some of the seriously injured cases in ICUs have no beds.

In addition, the country is seriously suffering from shortage of food. Yemen, one of the poorest countries in the world, already was a country where 60 percent of the people were living under the poverty line and the situation is worsening every day.

One in four Yemenis is undernourished and more than half of Yemen's 25 million people are 'food insecure', that is lacking access to sufficient food for their needs. With a high proportion of the population living off the land and some 90 percent of Yemen's water resources being used in agriculture, people are especially vulnerable when conflicts disrupt farm production.

According to FAO, the escalation of violence in Yemen, risks aggravating an already dire food security situation.

The civil society actors are deeply concerned about the ongoing violence in Yemen. For example, Amnesty International is disturbed by the high number of civilian casualties and deaths as a result of Saudi Arabian led airstrikes in Yemen announcing that "the high toll of civilian deaths and injuries in these attacks raises concerns about compliance with the rules of international humanitarian law." Also, Human Rights Watch, in letters to Saudi Arabia's King and U.S. Secretary of Defense, expressed concern that some of the airstrikes conducted by a U.S-backed, Saudi-led coalition in Yemen appeared to violate the rules of engagement and urged the United States and Saudi Arabia to take steps to minimize harm to civilians.

According to political analysts, Yemen is on the brink of civil war, or at least wide-scale revenge killings with different types of arms available in almost every Yemeni house.

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[1] . www.hrw.org/.../yemen-factory-airstrike-killed-31-civilians

[2] . http://www.reuters.com/article/2015/05/21/us-yemen-security-idUSKBN0O60VN20150521

Considering the fact that Yemeni people are suffering from the bitter consequences of the ongoing violence despite the UN criticisms3, immediate actions are required to stop the ongoing violation of human rights, especially the right to life and the right to food, preventing the worsening trend of Yemen human tragedy.

The Organization for Defending Victims of Violence condemns the ongoing grave violation of people's fundamental human rights and illegal interference in Yemen. ODVV echoes the UN Secretary General call for a freeze in all forms of violencein Yemen and urges the UN Security Council and the General Assembly to take immediate actions to stop all external attacks as well as any cases of internal conflicts and violations of human rights in the country.

ODVV also calls on the US and Saudi Arabia to join The Convention on Cluster Munitions (CCM) and follow the rules of engagement as determined by the international law to protect civilian rights in armed conflicts.

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[3] . http://www.un.org/apps/news/story.asp?NewsID=50813

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Please recycle

Saudi Arabia's Human Rights Situation

The Kingdom of Saudi Arabia is consistently ranking among the "worst of the worst" in Freedom House's annual survey of political and civil rights.[1] Not only the new king, Salman bin Abdulaziz Al Saud, has not been trying to take the first steps towards stopping the human rights abuses, but rather, with the same unfair and illegal policies he has been continuing the systematic violations of human rights both nationally and internationally in 2015. At the domestic level, the most important human rights problems reported include (but not limited to) citizens' lack of the universal rights such as freedom of expression and belief. In addition, women and religious minorities are still greatly suffering from discriminations taking place against them on a daily bases. In the past few years Saudi Arabia went even further to violate the sovereignty of the States (i.e., Bahrain and Yemen) which resulted in the death of hundreds of civilians, innocent women and children. International community has so far failed to enact effective measures in order to protect the rights and freedom of these groups.

Domestic Violations of Human Rights

It's been a long time that despite the recommendations and legal requests of both international organizations and NGOs to stop the human rights abuses in Saudi Arabia, the basic rights and freedom of women and minority groups are still being violated today. It is quite ironic that, neither relative international bodies nor human rights advocating States, appointed a country special rapporteur for Saudi Arabia, posed sanctions or any other punishment for that matter, which resulted to the country's continuation of human rights violations with impunity.

The country's government is known for its strict gender inequalities, as women may not legally drive cars, their use of public facilities is restricted, and they cannot travel within or outside of the country without a male relative. Education and economic rights for Saudi women have improved, and now more than half of the country's university students are females, however, due to the existing restrictions, woman makeup only 5% of the workforce in Saudi.[2]

With respect to the minority groups, religious practices of the Shiite and Sufi Muslim minority sects are extremely limited in Saudi Arabia. The least of the violations can be banning the building of Shiite mosque and not allowing them to practice or pray in public; and the most is the spite expressed by the known cleric, Adel Al Kalbani, in May 2009 declaring that all Shia Muslims were apostate, u believers, and as such should be killed. Considering that Al Kalbani was appointed to his position by the King hir lt, it seems that the cleric was expressing the state's position against all Shia Muslims, whether within or outside tl borders of the Kingdom. Al Kalbani suggested that all Saudi Shia should be forced to leave the Kingdom.[3]

According to Human Rights Watch report, Shia citizens in Saudi Arabia "face systematic discrimination in religion, education, justice, and employment".[4] Furthermore, the recent decision of the Saudi on beheading and publicly displaying the headless body of Sheikh Nimr Baqir al-Nimr, internationally respected Shia cleric, by the Specialized

[1] House, Freedom. *The Worst of the Worst: The World's Most Repressive Societies 2008*. Freedom House, 2007. Retrieved: http://web.archive.org/web/20101122180016/http://freedomhouse.org/uploads/special_report/88.pdf

[2] *Ibid*, pg. 17.

[3] Shakdam, Catherin. "Saudi Arabia's Escalating Campaign against Shia Muslims". *International Policy Digest*. 2014. Retrieved: http://www.internationalpolicydigest.org/2014/05/26/saudi-arabias-escalating-campaign-shia-muslims/

[4] Nasr, Vali, *The Shia Revival* (W.W. Norton & Company, New York, 2006) p. 84

Criminal Court for 'seeking foreign meddling' and 'disobeying' its rulers and taking up arms against the security forces[5] speaks to the clear existing infraction of freedom of speech and belief in Saudi Arabia.

As a result of the lack of providing a reasonable protection for the religious minorities in Saudi Arabia, a suicide bombing of a Shiite mosque in eastern Saudi Arabia took place on May 22th which caused the death of at least 19 people including children, a move that could represent a significant escalation of the extremist group's operations in the kingdom. Saudi Shiites are concerned that the attack represents a backlash for Saudi Arabia's military campaign against rebel (Shiite) Houthis in Yemen.[6]

International Violations of Human Rights

In the past few years, Saudi authorities have developed a habit of 'helping' people in Middle East by suppressing the oppositions of States. The intervention of Saudi in Bahrain during the Arab-Spring and in Yemen civil conflict today, are two examples of that. The great number of civilian casualties as a result of Saudi's attacks on these sovereign states in the past few years can never be justified by their 'Collateral Damage' argument. On March 2015, Saudi-led bombing campaign began. More than half of the victims have been reported to be civilian women and children. The U.N. and several major human rights groups have raised the possibility of war crimes in the scores of documented bombings so far. It is important to note that the U.S. has played a key role in the campaign, expediting weapons shipments and providing intelligence to Saudi Arabia. The dropped cluster bombs which contain dozens of smaller munitions designed to fan out over a wide area were manufactured and supplied by the United States. It should be mentioned that the use of cluster bombs are illegal under a 2008 treaty for the high civilian toll they can cause, and yet they were used anyway.[7]

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[5] ''Saudi Shia cleric Nimr al-Nimr 'sentenced to death''. *BBC News*. 2015. Retrieved: http://www.bbc.co.uk/news/world-middle-east-29627766

[6] Fadel, Leila. '' Self-Declared Islamic State Claims Responsibility For Saudi Mosque Attack''. May 2015. *NPR*. Retrieved: http://www.npr.org/2015/05/22/408827444/self-declared-islamic-state-claims-responsibility-for-saudi-mosque-attack

[7] Brumfield, B & Shelbayah,S. Report: ''Saudi Arabia used U.S.-supplied cluster bombs in Yemen''. *CNN*. May 2015. Retrieved: http://edition.cnn.com/2015/05/03/middleeast/yemen-hrw-cluster-munitions-saudi-arabia/

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Please recycle

Economic Sanctions: Systematic Violation of Human Rights

Economic sanctions are imposed on Iran with different justifications. According to the Security Council[1] sanctions are applied to effectuate five main outcomes: conflict resolution, non-proliferation, counter-terrorism, democratization, and the protection of civilians. However, decades of sanctions demonstrate that these objectives are rarely attained and it is crystal clear that, despite the justifications made, economic sanctions target the ordinary people, especially the most vulnerable population including children and patients who bear the brunt of economic instability caused by pressures.

It is highly regrettable to witness the politically motivated sanctions violating vulnerable people's human rights while they are proved to have failed reaching their intended political goals.

- Despite the agreements made on facilitating medicine transfers to Iran, unfair economic sanctions are still threatening the lives of Iranian patients. Hundreds of thousands of Iranians with serious illnesses have been put at imminent risk by the consequences of international sanctions, which have led to dire shortages of life-saving medicines. The sanctions have also led to shortages of key medical supplies, blatantly violating the patients' right to life and right to health.

  Medicines have been exempted form sanctioned items by the sanctioning countries, however the sanctions put on Iran banking system have made any financial transactions almost impossible, limiting the country's access to medicine.

- Sanctions are pushing ordinary Iranians to the edge of poverty, destroying the quality of their lives: limiting their access to food, medical care, adequate housing, education and employment. They seriously violate the right to enjoy an adequate standard of living. In addition, the sanctions are targeting the people who are living on or under poverty line more than the other people, making it too difficult for them to make ends meet.

- Sanctions have slowed Iran's industrial and economic growth, considerably limited foreign investment and triggered national currency devaluation, hyperinflation, declining GDP and, last but not least, reduction of oil and gas production and export. The negative impact of economic sanctions on Iran overall economy is undeniable. Consequently, the process of development in the country is seriously affected by the sanctions.

The sanctions were supposed to create hate and discontent among people in Iran, in order to contribute to a regime change in the country, while a Gall up poll indicates that contrary results are achieved. Iranian people, suffering from the bitter consequences of economic sanctions, have developed a feeling of hatred toward the sanctioning countries' inhuman behaviour rather than the Iranian authorities. Half of Iranians surveyed in 2012 and 2013 held the United States most responsible for the sanctions, compared to around 10 percent who felt their own government was most responsible. Sixty-eight percent of men and sixty-two percent of women believed that Iran should continue to develop its nuclear power capacity despite the sanctions.[2]

Members of civil society have been expressing concerns about the notorious impact of the unilateral coercive measures on human rights, but the pledges have not been translated into results so far and the violation of Iranian people's rights sadly persists.

Simply put, if the real objective of the sanctions was to hurt ordinary Iranians, they have been successful. If they were intended to compel Iran to cease its current nuclear program, they have not only failed, but have actually resulted in

[1] . http://www.ohchr.org/EN/NewsEvents/Pages/UnilateralCoerciveMeasures.aspx#sthash.Xxpypua2.dpuf
[2] . http://www.ohchr.org/EN/NewsEvents/Pages/UnilateralCoerciveMeasures.aspx#sthash.Xxpypua2.dpuf

acceleration of the program, while blatantly violating the fundamental human rights of the most vulnerable part of the Iranian population.

The Organization for Defending Victims of Violence (ODVV) raises serious concerns about the violation of human rights, especially that of the vulnerable population, as a result of economic sanctions.

ODVV calls on the international community and the UN to re-consider the sanctions and their impact on the people's human rights and support and facilitate any sanction removing decisions.

ODVV also calls on the special rapporteur on UCM to study the detrimental impacts of sanctions on innocent people and inform the UN of the results.

United Nations A/HRC/29/NGO/32

General Assembly

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Human Rights Council
Twenty-ninth session
Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by the Organization for Defending Victims of Violence, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-08928 (E)
1508928

Please recycle

Ongoing Unprecedented Atrocities in Iraq

It seems as if there is a lack of strong international political will to protect Iraqi civilians against IS atrocities. The terrorist group is going on committing ethnic cleansing in Iraq with impunity.

According to local officials, in the first few days after capturing the capital city of a major Iraqi region, IS militants likely killed as many as 500 people in the city of Ramadi, and forced 8,000 to flee their homes.[1]

There are numerous reports of IS atrocities such as, mass murders of civilians in the history of the group's terrorist activities including the mass beheading of 21 Egyptian Coptic Christians for their religion[2], 150 women and underage girls for refusing to marry militants[3], and 300 Yezidi hostages for their religious beliefs[4]. This is while the heinous pictures of the hostages who were burned alive are burned into the minds of human right activists and many ordinary people. The world is watching while many innocent civilians are massacred right before the eyes of the international community which does not appear to be determined to stop the terrorists from committing even more crimes.

More than 2 and a half million[5] Iraqis are displaced because of the IS attacks and due to the ongoing violence have little hope of returning to their homes. The refugees are in need of shelter, food, water and safety. Many of them are living in tents which are exposed to sever weather conditions. Sometimes the tents are overcrowded, making it difficult for refugees to tolerate the situation. Refugee children are deprived of their right to education and many refugees are suffering from chronic diseases and are traumatized by witnessing savage violence.

Apart from human tragedies created by IS in Iraq, the country's archaeological treasures are ruined by the terrorist group. The country has lost a considerable amount of its cultural heritage in the fight with IS militants including the destruction of 2,000-year-old city of Hatra[6], 3,000-year-old city of Nimrud[7], the mosque believed to be the burial place of the Prophet Younis, or Jonah[8], the Mosque of the Prophet Jirjis[9], landmarks in the ancient city of Dur Sharrukin, and Mosul museum[10]. Terrorists insist upon erasing the history of humanity by erasing the heritage of Iraq.

IS atrocities are not limited to Iraq, the terrorist group is involved in crimes in Syria, Egypt and even Saudi Arabia. On May 22, 2015, an IS suicide bomber attacked a Shiite mosque in Saudi Arabia, killing 21 innocent people and wounding 81 including women and children.

Also in Syria the world has grown weary of seeing the IS cruelty. The group now controls "50 per cent of the country's territory" committing unprecedented crimes against humanity. On May 21, 2015, it was reported that IS seized the ancient Syrian city of Palmyra, executing 17 people. At least 460 people were killed in the battle for Palmyra

1 . http://www.usnews.com/news/world/articles/2015/05/18/iraq-official-500-killed-8-000-fled-as-ramadi-fell-to-is
2 . www.cnn.com/2015/02/15/.../isis-video-beheadings-christians/
3 . www.dailymail.co.uk/.../Single-Islamic-State-militant-killed-1...
4 . http://www.telegraph.co.uk/news/worldnews/middleeast/iraq/11579854/Islamic-State-executes-300-Yazidi-hostages-in-Iraq.html
5 . http://www.rescue.org/blog/forgotten-humanitarian-crisis-iraq-photos
6 . http://www.wsj.com/articles/islamic-state-destroying-another-iraqi-historical-site-1425746226
7 . www.dailymail.co.uk/.../Video-Islamic-State-group-destroys-anci
8 . http://www.theguardian.com/world/2014/jul/24/isis-militants-blow-up-jonah-tomb
9 . http://www.theguardian.com/world/2014/jul/28/islamic-state-destroys-ancient-mosul-mosque
10 . http://www.theguardian.com/world/2015/mar/09/iraq-condemns-isis-destruction-ancient-sites

that began on May 13, including 49 who were executed by IS, nine of them children.[11]Regretting the fact that the fire of violence is burning at full blaze against civilians and minorities especially in Iraq and Syria, the Organization for Defending Victims of Violence (ODVV) echoes the pledges of Iraqi NGOs for supporting both their people and government in the defense of their sovereignty.

Expressing its deepest regrets about the continuation of violence by IS and in line with the serious concerns expressed in UN resolution A/HRC/28/L.29, ODVV calls on the international community to adopt more effective measures to protect civilians against the IS on-going atrocities and assist the Iraqi government to help the victims of IS crimes including the internally displaced people.

Voicing great concerns about the reluctance of international powers to help innocent civilians, ODVV calls on the UN to seek urgent political solution to tragic humanitarian crisis created by IS.

11 . http://www.abc.net.au/news/2015-05-22/is-executes-17-people-in-syria-palmyra-monitor/6488662

United Nations A/HRC/29/NGO/33

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Human Rights Council
Twenty-ninth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Associazione Comunita Papa Giovanni XXIII, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[24 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-08929 (E)
1508929

Please recycle

International solidarity: a powerful tool for addressing key global challenges

The Associazione Comunità Papa Giovanni XXIII welcomes the report A/HRC/29/35 of Ms Virginia Dandan, the Independent Expert on Human Rights and International Solidarity, submitted at the 29th regular session of the Human Rights Council.

Ms Dandan, discusses how the term "international solidarity" as a principle underpinning international law should be understood in the context of the proposed draft declaration on the rights of peoples and individuals to international solidarity, being aware of the ambiguity that sometimes is attached to international solidarity and of the need to limit its interpretations. She then describes the attributes of international solidarity and gives its exemplifications.

APG23 fully agrees with the conclusions of the Independent Expert who states: "international solidarity will be a powerful tool for addressing key global challenges to human rights and that in the context of the sustainable development goals and the climate agreement to be forged in 2015, international solidarity would ensure a fair and just relationship between State and non-State actors engaged in the pursuit of common goals or in overcoming a common challenge, in full cognizance of the human rights of the peoples, individuals and groups concerned."

Indeed, in our globalised world, there is a strongly felt need of seeking the common good and making real the concept of the family of nations as well as finding innovative ways to implement responsibilities for respecting, protecting and fulfilling human rights worldwide.

On the international level, the principle of solidarity is quite explicitly present in the Charter of the United Nations, in the Universal Declaration of Human Rights (art.1, art.28, art. 29), in the 1966 Conventions on Civil and Political rights and on Social and Economic and Cultural rights, in the Vienna Declaration and Program of Action of 1993, in the rationale for the Millennium Development Goals and in all the instruments relating to humanitarian law and human rights law. This principle is seen as an indispensable requirement in the solution of inequalities and for good international relations.

Time has come to move from the principle of international solidarity towards the recognition of the right of individuals and peoples to international solidarity. This is for the very survival of all humanity and for facing the challenges posed by our globalised and interconnected world such as, inter alia, climate change, increased inequities between and within countries and the threat posed to the concept of sovereignty and political power of States by the supremacy of finance and economics.

We are convinced that international solidarity involves the idea of mainly States but also other stakeholders offering mutual assistance in order to improve their general situation and relations. The key word is "mutual."
While it is apparent that wealthier states will be in a better position to offer assistance to poorer states, this should not lead to the conclusion that poorer states have no corresponding obligations to the international community or to their own nationals. International solidarity means genuine cooperative effort on the part of all states. Differences in resources and capacities mean that there will be differences as to how states meet their obligations, but the fact remains that all states share these obligations. Solidarity, in short, goes beyond "levelling the playing field" and towards the solution "No one wins unless everyone wins."[1]

Interconnectedness and interdependence are increasing worldwide so that the "butterfly effect"[2] becomes more and more real. Such interconnectedness can become a source of confrontation and even conflict unless there is a conscious commitment to lead this process of globalization toward a win-win solution through the strategy of solidarity.

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[1] R. St. J. MacDonald. Solidarity in the Practice and Discourse of Public International Law, Pace International Law Review, Volume 8, Issue 2, 1996

[2] Edward Lorenz: paper entitled *Predictability: Does the Flap of a Butterfly's Wings in Brazil set off a Tornado in Texas?*, to the American Association for the Advancement of Science in Washington, D.C., 1972

Solidarity is neither charity nor welfare; it is an understanding among formal equals that they will refrain from actions that would significantly interfere with the realization and maintenance of common goals or interests. Solidarity requires an understanding and acceptance by every member of the community that it consciously conceives of its own interests as being inextricable from the interests of the whole. No state may choose to exercise its power in a way that gravely threatens the integrity of the community. This principle would have an obvious impact on economic law; larger, more powerful capital-exporting states could not, by placing their own interests first, significantly interfere with the interests of smaller, weaker countries. Similarly, in the environmental domain, no state, whether developed or developing, could significantly interfere with the general interest of the community by asserting that its narrower national interests came first.

In this regard, we think that the proposed draft declaration on the right to international solidarity captures very well in the last article the negative obligations deriving from the respect of the right.

Pope John Paul II interpreted solidarity as the totality of economic, cultural, political and religious links binding human beings together and prompting them to help one another to achieve the common good of society. Solidarity is not a feeling of vague compassion. "On the contrary, it is a firm and persevering determination to commit oneself to the common good; that is to say to the good of all and of each individual, because we are all really responsible for all." [3] Pope John Paul saw the obligation to solidarity coming from an absolutely binding ethic; prophetically, he said that solidarity is not an option, but a duty.

In the Evangelii Gaudium, Pope Francis affirms: "perhaps the term "solidarity" in its often misused colloquial sense has been misunderstood. More than a mere expression of "random acts of kindness", solidarity "presupposes the creation of a new mind-set which thinks in terms of community and gives priority of the life of all over the appropriation of goods by a few."[4]

As such, solidarity leads beyond the radical individualism and materialism, found in so many cultural contexts, and toward the consideration of the plight of others, toward a change of worldview, in particular, with regard to the distribution of goods and resources which should not be at the service of a privileged few, but of all.

In its proper sense and implementation, solidarity is an obligation of all persons and of all nations to co-operate with one another in our globalized world and to work collectively towards "eliminating obstacles to development."[5]

Furthermore, APG23 supports the concept of "Preventive Solidarity that has been first introduced by Mr Rizki, the previous Independent Expert and echoed on several occasions by Ms Dandan. This notion has been adopted by resolution A/HRC/15/13 (OP7).

Preventive solidarity means that steps are taken by Member States, at national and international level, to address and remove the structural obstacles to the enjoyment of human rights and a fair distribution of benefits in our globalised world.

Many recent events in the world can be interpreted as the result of a lack of preventive solidarity. For example, if international cooperation applied without conditional ties and a sharing of health technology and research would have been implemented long time ago to strengthening weak health systems in developing countries, the Ebola' epidemic would not have been so spread and devastating. If solidarity cooperation would have been carried out towards the least developed countries and the international community would have prevented the origin of many conflicts, we would not be confronted with the phenomenon of forced migration in such a proportion.

[3] Sollicitudo rei socialis, 1987, n. 38
[4] Evangelii Gaudium, 188
[5] UN Declaration on the Right to Development, art. 3.3.

A positive example of preventive solidarity has been the Kyoto protocol and possibly the achievement of a legally binding and universal agreement on climate at the UN Climate Change Conference in Paris that will be held in November 2015.

Preventive solidarity implies, inter alia, that States respect fully the international obligations pledged at the United Nations, implement the ratified conventions and treaties, are committed to disarmament, clean energy policies, strengthening health systems and setting a post-2015 Sustainable Development agenda that builds up a global partnership based on solidarity.

Preventive solidarity is interlinked also with other important issues such as: total cancellation of the foreign debt of developing countries, the concept of reparation, global and national governance, world trade, reforming of the United Nations system and international financial institutions, civil society participation, intellectual property rights, agricultural policies, fiscal heavens, climate change, determinants of health, the implementation of the right to development, etc.

Finally, APG23 looks forward to the outcome of the regional consultations on the proposed draft declaration on the right of individuals and peoples to international solidarity, which the Independent Experts will carry on in the following months and to the final text of the declaration.

The huge challenge is mustering the political will to implement solidarity through binding obligations, transforming a recognized moral duty into international law and into just behaviour.

United Nations A/HRC/29/NGO/34

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Human Rights Council
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Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by the Reporters Sans Frontiers International - Reporters Without Borders International, a non-governmental organization in special consultative status

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[24 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

Eritrea: urgent SOS to the Human Rights Council

By 2 June 2015 Swedish-Eritrean citizen Mr. Dawit Isaak had passed 5 000 days in prison without charge, trial or sentence. His case is emblematic of thousands of other newsproviders, human rights defenders and opposition politicians.

Mr. Isaak is a journalist. He was arrested in September 2001 in Eritrea as were 17 colleagues. The Eritrean Government had days earlier closed down all independent papers in the country as a part of a major clampdown. Since then many more journalists, politicians, human rights defenders have been arrested in Eritrea.

According to Amnesty International there are thousands of political prisoners in Eritrea. The case of Mr Isaak was reported to the Police in Sweden by French and two Swedish jurists in June 2014. The complaint pointed to President Isaias Afewerki of Eritrea and some of his closest ministers being responsible for *Torture, enforced disappearance and crimes against Humanity in the case of Dawit Isaak*. The jurists are Mr. Jesús Alcalá and Mr. Percy Bratt from Sweden and Ms. Prisca Orsonneau from France, until recently legal coordinator for Reporters without Borders.

On 25 March 2015 the Swedish Prosecutor-General, wrote:
"The facts of this case give reason to believe that what has befallen him (Mr. Isaak) can be traced to the top political level in Eritrea, and that this has also befallen other journalists, politicians and many others for similar reasons. I find that there is reason to believe that at least Crimes against Humanity in the form of Enforced Disappearance under Section 2, 9§ in the Law on Genocide, Crimes against Humanity and War Crimes have been committed against Dawit Isaak-"
(The decision by the Prosecutor-General is annexed to this document.)

In the work to bring the case to justice in Sweden the jurists were supported not only by the Swedish section of *Reporters without Borders* but also by Africa-based defenders of Human Rights. A joint statement published in the Swedish daily *Expressen* was signed by *East and Horn of Africa Human Rights Defenders Project* (EHAHRDP) in Kampala, the *Institute of Human Rights and Development in Africa* (IHRDA) in Banjul and Article 19 in Nairobi. (http://www.expressen.se/debatt/sverige-maste-utreda-brotten-mot-dawit/)

Mr Isaak and his colleagues are kept incommunicado at undisclosed locations and are not allowed to see neither family, friends, lawyers, representatives from the ICRC nor - in Mr. Isaak's case - Swedish or European diplomats. It is not only the prisoners who are being hurt by this illegal treatment but also their families and perhaps, most of all, their children being deprived of their fathers for more than a decade. They suffer, wherever they live, be it in Sweden, France, Eritrea or any other country.

The case of Dawit Isaak and his incarcerated colleagues shows the need for working over borders. The imprisonment of Mr. Isaak has been taken up by the *African Commission of Human and Peoples' Rights* (ACHPR) after a writ for Habeas Corpus was ignored by the High Court in Eritrea where it was sent by the three above-mentioned jurists in 2011.

In an earlier case before the ACHPR Eritrea had underlined that Habeas Corpus is practiced in Eritrea. But it was not practiced in this case so the jurists turned to the ACHPR which has decided to try the case on its merits. *Reporters without Borders/Sweden* has during this process been granted Observer Status before the Commission and made a statement in April in Banjul. During all these proceedings, we wish to acknowledge the importance of the moral and practical support by organisations like EHAHRDP and IHRD.

Both at ACHPR and in 2013 during the June session of the Human Rights Council joint efforts have been made in cooperation with EHAHRDP, Article 19 and other NGOs to shine a sharper light on the severe Human Rights situation in Eritrea by bringing to the Council the voices of the victims as well as available updates on the case of Dawit Isaak

and the other imprisoned journalists and human rights defenders, including Mr. Seyoum Tsehaye whose family lives in France.

During the latest session of the ACHPR in April 2015, the report "*The Erosion of the Rule of Law in Eritrea: Silencing Freedom of Expression*" was launched by the *Centre for Human Rights* at the University of Pretoria and the *UN Mandated University for Peace* in Costa Rica.

The report can be downloaded at the Pretoria University Press site: http://www.pulp.up.ac.za/cat_2015_01.html
It is a grim document which is based on extensive interviews with Eritrean witnesses as well as reports by international bodies and civil society.

The UN HRC Special Rapporteur on Eritrea *Ms. Sheila Keetharuth, Ms. Pansy Tlakula* Commissioner and Special Rapporteur on Freedom of Expression in Africa at the ACHPR, *Professor Frans Viljoen* of the University of Pretoria and *Mr. Björn Tunbäck* of Reporters without Borders/Sweden all took part in the presentation of the report in Banjul.

The report adds to the description of how the general Human Rights situation in Eritrea, the mandatory open-ended military service for all youths and the total lack of freedom of Expression and information leads to intense despair and hopelessness, driving Eritreans to flee their country in droves every month, whatever the costs. They prefer risking blackmail kidnapping, or death at sea while trying to cross the Mediterranean.

To add to the general feeling of hopelessness, there is now a growing concern among Human Rights Groups that the European Union will increase its financial support for Eritrea to ease the flow of Eritrean migrants without any consideration of the dire Human Rights situation in Eritrea which is creating the influx of the refugees from that country. This would of course strengthen the power in place and increase it repressive efficiency.

Eritrea was heavily criticised before the HRC in 2014 during the Universal Periodic Review. It has been criticised by the ACHPR. The country is under sanctions from the Security Council. But all this seems to be ignored by the Government in Asmara.
The Government also denies entry to both the UN Special Rapporteur and the HRC Commission of Inquiry.

Time is running out, enough is enough and in such a situation concerted and concrete action is needed at local, national, regional and international levels.

One way to apply pressure is to have the European Union put its preparations for an aid package to the Eritrean Government on hold until the Commission of Inquiry and Special Rapporteur on Eritrea are given access to Eritrea to carry out their investigation.

Another way to apply pressure against the Eritrean Government when demanding Human Rights is for more countries to follow the example of Canada. The Canadian authorities have taken legal action and also expelled an Eritrean diplomat to stop the collection of the so called voluntary 2-percent tax that Eritrean diplomats globally demand from Eritreans in exile. Any Eritrean in exile is requested to pay two percent of their income for any service asked from the Embassy for example asking for a visa or a birth certificate. This regardless of having paid tax in the country of domicile. Refusing to pay is known to have resulted in reprisals against relatives still in Eritrea. The collection of this tax actually constitutes an intimidation to citizens in many countries who happen to be of Eritrean origin.
The Canadian Government cautions Eritreans in exile as paying the tax be in breach of the sanctions imposed by Security Council: http://www.canadainternational.gc.ca/sudan-soudan/bilateral_relations_bilaterales/eritrea-erythree.aspx?lang=eng

The situation is grave. The flow of refugees from Eritrea affects many countries in the entire region as well as Europe. It is an ongoing tragedy for thousands of Eritreans and their families.

In the case of the imprisoned journalists and of Mr. Dawit Isaak it may soon be too late. As mentioned seven of his colleagues have already perished while in prison. We have a common responsibility to do our utmost to prevent further loss of lives. We demand his immediate release along with all his arrested colleagues.

To end this SOS on a positive note, it is encouraging to see the increase collaboration between the UN human rights system and the African regional mechanisms. A suggestion could be to encourage a more pro-active action on the part of the Security Council.

Above all, this is a situation which demands that the Council, despite the attachment of its members to a cooperative approach, consider urgently also a more proactive solution to the ongoing Eritrean tragedy.

United Nations A/HRC/29/NGO/35

General Assembly

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Human Rights Council
Twenty-ninth session
Agenda item 2
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[03 June 2015]

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Please recycle

Nigeria: Crimes under international law committed by Boko Haram and the Nigerian military in north-east Nigeria

BACKGROUND

Since Amnesty International's last submission to the Human Rights Council (AFR 44/1033/2015)[1] it has released two reports on the conflict in north east Nigeria. These reports document in great detail evidence of crimes under international law committed by both parties to the conflict. It is vital that Nigeria's new government immediately introduces safeguards to end human rights violations by its military and investigates crimes under international law by all parties. The cycle of violence in north-east Nigeria can only be broken by holding accountable those responsible.

BOKO HARAM

Amnesty International's report "'Our job is to shoot, slaughter and kill' Boko Haram's reign of terror in north-east Nigeria" (AFR 44/1360/2015)[2] found that since the start of 2014 Boko Haram members have killed more than 5,500 civilians and abducted more than 2,000 women and girls, as well as hundreds of men and boys. Boko Haram fighters have treated civilians under their control brutally. They have used torture or executions to enforce their rules, forced women and girls into marriage with their members or raped them, and recruited child soldiers. These acts amount to war crimes and crimes against humanity, which must be investigated and prosecuted.

Since February 2015, the Nigerian military, with support from the armed forces of Cameroon, Chad and Niger, forced Boko Haram out of major towns and some of its camps in Sambisa forest. Hundreds of civilians were able to return to government-controlled areas as a result and are seeking urgently-needed humanitarian assistance. However, Boko Haram continues to regularly kill civilians in hit-and-run attacks and suicide bomb attacks.

NIGERIAN SECURITY FORCES

In the course of security operations against Boko haram, Nigerian military forces have committed war crimes, acts which may amount to crimes against humanity, and other serious human rights violations. These acts are documented in Amnesty International's report "Stars on their shoulders. Blood on their hands. War crimes committed by the Nigerian military" (AFR 44/1657/2015)[3], released on 3 June 2015. They include:

- Deaths in custody: Since March 2011, more than 7,000 men and boys have died in military detention. Their deaths are often unrecorded and almost never investigated. Amnesty International gathered the data and the details of individual cases through visits to mortuaries, internal military reports, statistics recorded by local human rights activists and interviews with witnesses, former detainees, hospital staff, mortuary personal and military sources. The main causes of deaths were starvation, thirst, severe overcrowding that led to the spread of lethal diseases, torture and lack of medical attention, and the use of fumigation chemicals in unventilated cells. The highest death rates were recorded in Giwa barracks, Maiduguri, Borno state, in May, June and July 2013, where up to 180 deaths were recorded on some days. Amnesty International documented similar patterns of deaths in custody at Sector Alpha ('Guantanamo') in Damaturu, Yobe state and the Joint Task Force (JTF) Headquarters in Potiskum, Yobe state. Circumstantial evidence points to further deaths in custody at the Multinational JTF Headquarters at Baga, Borno state; 23 Armoured Brigade barracks, Yola, Adamawa state; and Presidential Lodge ('Guardroom') in Damaturu, Yobe state.

- Extrajudicial executions: At least 1,200 people, almost certainly many more, have been extrajudicially

[1] https://www.amnesty.org/en/documents/afr44/1033/2015/en/ and A/HRC/28/NGO/161 of 27 February 2015
[2] https://www.amnesty.org/en/documents/afr44/1360/2015/en/
[3] https://www.amnesty.org/en/documents/afr44/1657/2015/en/

executed by the military since February 2012, including the following cases:

- On 14 March 2014, Nigerian soldiers killed more than 640 recaptured detainees in Maiduguri, after they were released during a Boko Haram attack on Giwa barracks;

- On 18 April 2013, 64 detainees were taken out of their cells in Presidential Lodge ('Guardroom') in Damaturu, Yobe state, driven into the bush and shot at close range;

- On 14 February 2012, Nigerian soldiers opened fire on civilians in Duguri, an island in Lake Chad, Borno state. According to witnesses more than 200 people were killed. The killings appear to have been revenge for a Boko Haram attack two days earlier, in which at least two soldiers died.

- Torture and other cruel, inhuman or degrading treatment: The military has tortured suspects in custody and kept them in overcrowded cells, without access to adequate sanitary facilities, food, water or medical care. These conditions amount to cruel, inhuman or degrading treatment.

- Arbitrary arrests: Amnesty International estimates that since 2009 the Nigerian military has arrested at least 20,000 persons in areas of Boko Haram activity. On numerous occasions, particularly following Boko Haram raids, soldiers have used unreliable hidden informants to screen entire communities of villages and towns in Borno and Yobe states. The military has also arrested relatives of Boko Haram suspects in lieu of the suspect.

- Unlawful detention: In detention centres in the north-east and other locations in Nigeria, detainees have not had access to their families, lawyers or adequate medical attention. Those detained are held because they are allegedly members or supporters of Boko Haram, but most have never been charged and have not been brought before a court.

IMPUNITY

The Government of Nigeria has failed to take prompt and effective steps to investigate and hold accountable most perpetrators of serious crimes on all sides, including Boko Haram, Nigerian military forces and the state-sponsored militia known as the 'Civilian JTF'.

CRIMINAL RESPONSIBILITY

Amnesty International has concluded that these acts by the military constitute was crimes and may amount to crimes against humanity. Documentary evidence presented in Amnesty International's report shows clearly that senior military leaders were fully informed of the nature and scale of the crimes being committed and failed to take any meaningful measures to stop the violations. Amnesty International's report names five high-ranking military officials who were in charge of operations in north-east Nigeria from 2012 to date, as well as two Chiefs of Army Staff and two Chiefs of Defence Staff, who should be investigated for potential individual and command responsibility for these crimes.

RECOMMENDATIONS

Amnesty International urges the Human Rights Council to

- Adopt a resolution calling upon the Government of Nigeria to urgently initiate thorough, independent, impartial and transparent investigations into crimes under international law by all parties to the conflict and to seek regional and international assistance and advice in the conduct of these investigations and any subsequent prosecutions;

- Request a report on steps taken by the Nigerian government towards the implementation of its obligation to pursue truth, justice, reparation and guarantees of non-recurrence, including through the investigation and prosecution of crimes under international law committed by all parties to the conflict; and

- Ensure that it explicitly addresses human rights violations committed by Nigerian security forces and the Civilian JTF, as well as progress made in pursuing truth, justice, reparation and guarantees of non-recurrence, in its deliberations and requests for reports.

Amnesty International also urges the Human Rights Council and its members and observer states to urge Nigeria to:

- Respond positively to the requests to visit Nigeria made by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, in fulfilment of recommendations Nigeria supported at the 17th session of the Universal Periodic Review (UPR) Working Group;[4]

- Develop and implement all necessary measures to put an end to the violations of human rights by security forces, including extrajudicial killings, torture and arbitrary arrests, in fulfilment of recommendations Nigeria supported at the 17th session of the UPR;[5] and

- Strengthen the system of independent monitoring in all detention facilities in accordance with the Optional Protocol to the Convention against Torture and establish a human rights monitoring system which has access to military detention centres Nigeria as recommended by member states and accepted by Nigeria at the 17th session of the UPR.[6]

Amnesty International urges the government of Nigeria to:

- Initiate independent, impartial, and thorough investigations into allegations of crimes under international law, including crimes against humanity and war crimes, committed by members of Boko Haram and the Nigerian military. Where sufficient admissible evidence is gathered, alleged perpetrators should be prosecuted in fair trials, without recourse to the death penalty;

- Ensure that its security forces and members of the Civilian JTF adhere strictly to their obligations under international human rights law and international humanitarian law, and in particular, implement safeguards to prevent the human rights violations set out above;

- Immediately close military detention facilities and transfer suspects to civilian authorities;

- Ensure that domestic law and practice relating to the detentions of suspects conform fully with international human rights treaties ratified by Nigeria and other applicable international human rights standards;

- Accept outstanding requests from the UN Special Rapporteurs on the promotion and protection of human rights while countering terrorism, and on the rights to freedom of peaceful assembly and of association to visit Nigeria; and

- Extend invitations to the UN Special Rapporteurs on torture and other cruel, inhuman or degrading treatment or punishment, and on extrajudicial, summary or arbitrary executions, as well as the Working Group on Enforced or Involuntary Disappearances to visit Nigeria.

A full set of Amnesty International's recommendations for the government of Nigeria is found in its two reports.

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[4] Recommendations 135.39 to 135.41, 16 December 2013 "Report of the Working Group on the Universal Periodic Review: Nigeria" United Nations Human Rights Council A/HRC/25/6.
[5] Recommendations 135.68 to 135.73, ibid.
[6] Recommendations 135.34, 135.73, 135.108 to 135.109 and 135.112, ibid.

United Nations A/HRC/29/NGO/36

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Human Rights Council
Twenty-ninth session
Agenda item 2
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Written statement* submitted by the Verein Sudwind Entwicklungspolitik, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[24 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-08932 (E)
1508932

Please recycle

UN Executive Board Members Should Respect Human and Women's Rights

UN bodies and UN member states are all bound by their overarching obligations under the Charter of the United Nations (Articles 1, 55 and 56) to promote 'universal respect for, and observance of, human rights and fundamental freedoms. In addition the unanimously adopted Vienna Declaration and Programme of Action state that democracy, development, and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing. In 1997, the Secretary-General called on all entities of the UN system to mainstream human rights into their various activities and programmes within the framework of their respective mandates. Since then a number of UN agencies have adopted a human rights-based approach.

This human rights approach, however, is not fully reflected in the processes for nominating and electing executive board members as the governing body of different organs, since highest standards in the promotion and protection of human rights seem to be no binding condition of membership. For instance the Islamic Republic of Iran serves on various UN bodies, including the governing council of the U.N refugee agency (UNHCR), the executive board of the U.N. Children's Fund (UNICEF), the Commission on Crime Prevention and Criminal Justice, the Commission on Narcotic Drugs and the U.N. Development Programme (UNDP). Despite the fact that according to the recent Secretary-General Report individuals in the I.R. Iran have increasingly been targeted for their alleged contacts with United Nations human rights mechanisms. Furthermore the reports states that arbitrary detention and prosecution of journalists, human rights defenders and women rights activists have continued.

The I. R. Iran was reelected to the UN's Commission on the Status of Women and will become in January 2016 a member of the executive board of the U.N. Entity for Gender Equality and the Empowerment of Women (U.N. Women). Though as reported by the Secretary-General the Women's rights in the I.R. Iran remain a priority concern, particularly underage marriages and the underrepresentation of women in the labour force and in decision-making positions.

In most election processes leading to membership of I.R. Iran in the governor's board, the I.R. Iran was on a "closed slate" of candidates put forward by its Asia regional group. The contentious practice, which entails submitting the same numbers of candidates as there are vacancies available, regularly rules out any consideration and complaints. Unless objections are raised, there is no actual vote, and the regionally-endorsed candidates are instead given the nod by "acclamation". For the board of UN Women the 54-member of the U.N. Economic and Social Council held after objections a secret ballot on the uncontested Asia-Pacific regional slate, therefore the ECOSOC member states had the opportunity to choose from among around 50 countries in Asia, including the five countries endorsed by the group, to fill the five vacancies. The low vote total that the I.R. Iran received testifies to the deep concerns U.N. member states had about Iran gaining a position on the board of UN Women, however an adequate number of states handed the I.R. Iran 36 votes, well over the 27-vote minimum.

The I.R. Iran has not yet ratified the CEDAW and negative propaganda by the Iranian authorities is directed against gender equality, a term not used in official Iranian documents and public statements, wording gender justice instead. Furthermore during the Universal Periodic Review (UPR) all recommendations on equal rights for women or gender equality did not enjoy the support of the Islamic Republic of Iran.

This view results in a host of discriminatory practices that affect women in their public and private lives. For example, in courts the monetary damages for causing the death of a women is half that of a man's. A women's testimony is also worth half of that of a man's and women are barred from holding some government positions, there are no laws against domestic violence or FGM, but laws permitting honor killing, which is one of the most serious forms of violence against women within the family. Gender inequality in the Islamic Republic of Iran is structuralized and institutionalized. At the 57th session of CSW the Iranian government has already shown its intentions towards women's rights and its harmful impact on policy-making bodies for promotion and protection of women rights. The Islamic Republic of Iran as a member of CSW board in cooperation with some other countries blocked the paragraph (nn) from the draft resolution. This paragraph emphasized on adoption and acceleration of the implementation of laws, policies

and programs which protect and enable the enjoyment of all human rights and fundamental freedoms for women, including their sexual and reproductive rights, in accordance with the Program of Action of International Conference on Population and Development, the Beijing Platform for Action and their review outcomes is a step backward.

In the light of above it seems inappropriate that the I.R. Iran is voted a leadership role on women's rights within the UN System since the full and equal participation of women in political, civil, economic, social and cultural life, at the national, regional and international levels, and the eradication of all forms of discrimination and violence on grounds of sex are priority objectives of the UN and the international community.

All activities of the United Nations should be enhanced in order to promote the objectives of universal respect for observance of international human rights standards, therefore all inter-governmental bodies within the United Nations system must uphold the highest standards in the promotion and protection of human rights as a condition of executive board membership. The inter-governmental body within the United Nations system that should set an example and has dedicated a General Recommendation to human rights standards of its membership is the Human Rights Council. The General Assembly resolution 60/251 expressly set that those states elected as members of the Human Rights Council must uphold the highest standards in the promotion and protection of human rights as a condition of membership. This approach can only be satisfied if there are also competitive elections in which UN member states are offered the possibility of choosing among candidates for available seats on other UN Organs. A clean slate leaves no electoral choice to the UN member states not involved in determining the slate and thereby frustrates their right of vote.

Sudwind calls on the Human Rights Council to urge all States to:

- Bearing in mind the centrality of human rights to the aims of the United Nations and always take the human rights perspective into account while nominating and electing members of UN organs.
- Electing states on the basis of their proven expertise and engagement in relevant areas, such as the ratification of CEDAW to become a member of the executive board of UN women, and their willingness to undertake duties associated with the mandate of the entity. Therefore States should be appointed not only in a manner that ensures equitable geographic representation.
- Offering UN member states the possibility of choosing among candidates for the available seats of UN bodies by ensuring that there will be more candidates than vacant seats available in their slates.

United Nations A/HRC/29/NGO/37

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Human Rights Council
Twenty-ninth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Associazione Comunita Papa Giovanni XXIII, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[24 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-08933 (E)
1508933

Please recycle

Human trafficking as crime against humanity

Associazione Comunità Papa Giovanni XXIII (APG23) is firmly convinced - as Pope Francis constantly underscores – that 'Human Trafficking is a Modern Slavery' and that its practice is a "Crime against Humanity".

No one can or should accept the fact that a person is nullified, denied in his/her own human dignity and reduced from a subject to an object.

Millions of trafficked persons are subjected to sexual exploitation, and the number of victims trafficked and trapped in forced labour is also increasing.

"It is the demand for cheap labour, for prostitution, for organs, where rich people's wants nullify poor people's rights to work in physical safety, to protect their own bodies against abuse and to value their own vital body parts as necessary to life itself.

This demand it's growing, not decreasing and it fuels 'internal trafficking' within countries: the 'grooming' of young girls, the sequestration of the desperate as 'domestic workers', the detention of 'captive workers'."[1]

We are deeply concerned about the increasing phenomenon of unaccompanied minors that are at the mercy of traffickers and criminal organisations: child migrants who are exploited not only during their journeys but also in the countries of transit and destination.

In 2005, the Committee on the Rights of the Child made clear in its General Comment n.6 ("Treatment of unaccompanied and separated children outside their country of origin" CRC/GC/2005/6) the particular vulnerable situation of unaccompanied and separated children that are victims of trafficking in various contexts and forms.

Regrettably, thousands upon thousands of migrant children are subjected to human trafficking. The interventions of the countries of destination are often inadequate and quite often, so child un-friendly that they actually imprison these children.

We are also deeply concerned about the tendency to center immigration policies on a unbalanced perspective of defence and closure of borders. Such approaches are incorrect and short-sighted and will not stop the traffickers. In Australia, for example, there is a proposal to adopt a range of measures that would further contravene the principle of non-refoulement that remains an obligation under international law[2].

As stated in the 2014 UNODC Global Report on Trafficking in Persons: "The crime of trafficking in persons affects virtually every country in every region of the world. Between 2010 and 2012, victims with 152 different citizenships were identified in 124 countries across the globe"[3].

These are the official data reported to UNODC by the national authorities but represent only what has been detected. It is clear that the phenomenon is larger and expanding.

Such a trade that amounts to a new modern form of slavery needs not only to be criminalized but also to be prevented and eradicated. Its victims have the right first to immediate and effective protection and also to remedy.

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[1] Margaret Archer, president of the Pontifical Academy of Social Sciences, Preface to Plenary Session "*Human Trafficking: Issues beyond criminalization*" 17-21 April 2015 Vatican City

[2] A/HRC/28/85, p.132, AUS 5/2014

[3] UNODC (United Nations Office on Drugs and Crimes), Vienna, *Global Report on Trafficking in Persons 2014*, pp. 11

APG23 wished to appreciate the report of the Special Rapporteur on trafficking in persons, especially women and children, Maria Grazia Giammarinaro (A/HRC/29/38) but it was not published until the dead-line for present written statements at the 29th regular session of the Human Rights Council, so we have no possibility to comment on that and we reserve our position to the oral statement.

On 2 December 2014, in Rome, Catholic, Anglican, Muslim, Hindu, Buddhist, Jewish and Orthodox religious leaders signed a Joint Declaration of Religious Leaders Against Modern Slavery ("Joint Declaration") as a public statement of their commitment to work together in spiritual and practical actions to eradicate this crime against humanity and restore dignity and freedom to its victims.

The statement proclaims: "In the eyes of God each human being is a free person, whether girl, boy, woman or man, and is destined to exist for the good of all in equality and fraternity. Modern slavery, in terms of human trafficking, forced labour and prostitution, organ trafficking, and any relationship that fails to respect the fundamental conviction that all people are equal and have the same freedom and dignity, is a crime against humanity."[4].

The true identity and human dignity of human beings is compromised by the current globalization of indifference. Some of its gravest consequences can be seen in modern forms of slavery and human trafficking – the systematic deprivation of a person's liberty, and abuse of his or her body, or labour.

We joint with the final comment of the Joint Declaration in calling Governments, International Organizations, no-States Actors and all men ad women of good will "to work together for the freedom of all those who are enslaved and trafficked so that their future may be restored. Today we have the opportunity, awareness, wisdom, innovation and technology to achieve this human and moral imperative"[5].

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[4] *Joint Declaration of Religious Leaders Against Modern Slavery*, Casina Pio IV, Headquarters of the Pontifical Academies of Sciences and Social Sciences, 2 December 2015;
[5] Ibid.

United Nations A/HRC/29/NGO/38

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Human Rights Council
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Agenda item 5
Human rights bodies and mechanisms

Written statement* submitted by the Organization for Defending Victims of Violence, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-11416 (E)
1511416

Please recycle

Power vs. Peace

The Nuclear Non-Proliferation Treaty is a landmark international treaty whose objective is to prevent the spread of nuclear weapons and weapons technology, to promote cooperation in the peaceful uses of nuclear energy and to further the goal of achieving nuclear complete disarmament. The NPT represents the only binding commitment in a multilateral treaty to the goal of disarmament by the nuclear-weapon States.[1] Conferences to review the operation of the Treaty have been held at five-year intervals since the Treaty went into effect in 1970.

The latest conference took place in New York on May 2015, however, after four weeks of negotiations states and participants left the conference on a dead luck with a great failure as a result of the United States, Britain and Canada's one-sided oppositions on a proposal to set up a nuclear weapons-free zone in the Middle East. Protecting Israeli's interest and its violent policies in the region by countries like Canada, UK, or US is nothing new. However, such clear blocking of an international decision is absolutely contrary to what they all claim about the protecting the international peace and security.

As the Organization for Defending Victims of Violence, we would like to express our strongest and deepest disappointment on what happened at the conference and blame the three countries of US, UK and Canada for it. We believe it is the time to let the region of Middle East to decide for itself and make its destiny. The so-called world powers need to stop intervening in the region's affairs. For how long are the states in Middle East are supposed to suffer the consequences of Israel's ''self-defence'' wars? For how long the Unites States wants to bring ''democracy'' in the countries of Middle East by taking military actions against them For how long the people of Middle East are supposed to be the victim of ensuring the Israel's security in the world?

The most important decisions such as Middle East being a weapon-free-zone, is being rejected and therefore not in place *by* the states that are not even part of the region, *for* of the Israel who never even ratified the NPT. And yet, ironically enough, Iran is considered to be the threat to the international security.

ODVV requests the three states of US, UK and Canada to reconsider their decision on the final document of the recent review conference of NPT in order to avoid any further damage to their international image.

[1] http://csonet.org/?page=view&nr=283&type=13&menu=14

United Nations A/HRC/29/NGO/39

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Human Rights Council
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Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-11414 (E)
1511414

Please recycle

Indonesia: extrajudicial and summary executions remain a serious problem despite legal guarantees to the right to life

1. The Asian Legal Resource Centre (ALRC) wishes to draw the attention of the UN Human Rights Council to the widespread occurrence of extrajudicial and summary executions within Indonesia. Such cases are rarely effectively investigated. With the security forces and other arms of the state apparatus frequently involved in such crimes, law enforcement agencies have become an obstacle in enforcing law and investigating crime.

2. The sanctity of the right to life is expressed in Article 28 of Indonesia's Constitution, Article 4 of Law No. 12 of 2005, concerning the Ratification of the Covenant on Civil and Political Rights, and Article 4 of Law No. 39 of 1999 on human rights. Despite this, countless cases of extrajudicial and summary executions occurred under former President Susilo Bambang Yudhoyono's administration (2004-2014), and they are continuing under current President Joko Widodo. The violation of the right to life occurs in many parts of the country, linked to various rights, including the right to land and natural resources, religious freedom, freedom of expression and association.

3. Some of the grave instances of extrajudicial killings documented by the Asian Human Rights Commission, sister organisation of the ALRC, between 2010 and 2014 are as follows:
a. Police officers of Bima police sector shoot to death three local farmers in Sape Port, West Nusa Tenggara Province, in 2011.
b. Police mobile brigade [Brimob] shoot to death Angga Bin Darmawan, a 12-year-old boy in Ogan Ilir, South Sumatra Province, on 27 July 2012.
c. Police officers of Cisauk Police Sector, Bogor, West Java Province torture and shoot to death Mr. Yusli, a suspect of motorcycle theft, on 26 December 2011.
d. Police officers in Papua shoot to death a labourer of the Freeport Company in Timika, Papua Province, during a peaceful protest conducted by labour associations on 10 October 2011.
e. Intolerant mobs brutally attack and kill individuals belonging to minority religious and belief groups: one Shia follower killed in Sampang Regency, East Java Province in 2012; three Ahmadiyya followers killed in Cikeusik, West Java, in 2011; and Tengku Ayub, the leader of a local belief group killed in Aceh Province on 17 November 2012.

4. Extrajudicial killings have a close link with custodial torture in Indonesia. For instance, on 13 October 2013, Mr. Aslim Zalim, a 34-year-old civil servant, was tortured to death in police custody in Bau Bau Regency, South East Sulawesi. Similar methods were used by the Indonesian Army to kill a local tribe member, Mr. Puji, on 4 March 2014 in Jambi Province. Six soldiers and a security guard of the Asiatic Persada Company brutally tortured Puji, after which he was taken to a local hospital in Jambi City. Due to grave injuries suffered, Puji died.

5. The Army is also involved in extrajudicial killings and other abuse in Papua, where severe restrictions on many freedoms are imposed by the State. On 8 December 2014, soldiers shot to death five persons aged between 16-18 years, while 22 others were injured. According to Paniai Customary Council head, Mr. John Gobay, the shooting took place when local residents from Togokotu village were gathering at the Soeharto field to protest the brutal attack on Yulianus Yeimo, a 15-year-old boy, which had occurred the previous night.

6. The Special Detachment 88 (Densus 88), the anti-terror unit of the Indonesian Police, is another body responsible for extrajudicial killings and other human rights abuse. On 14 May 2011, the group shot to death Mr. Nur Iman, a street vendor in Sukoharjo, Central Java Province. Two innocent civilians were shot to death in Cawang, Jakarta, on 13 May 2010. In these and other documented cases, there has been no proper investigation. Under former President Yudhoyono's administration, Densus 88 was untouchable, and this is likely to continue under the current government. The lack of accountability for their actions and abuse of power means that Densus 88 agents are free to continue committing human rights violations.

7. According to the Commission for Disappeared and Victims of Violence (KontraS), it is the police and military that has committed the most extrajudicial killings over the last five years. The number of military officers committing such human rights abuse is seen to be decreasing however, while the number of police officers doing so is increasing. Beside the military and police, perpetrators of extrajudicial and summary killings consist of multinational corporations, thugs, and private security guards that are being tolerated by the State.

8. Extrajudicial executions also occurred during the latest general election in 2014. KontraS documented several brutal attacks by unknown persons against members of local political parties in Aceh Province. One case was that of Mr. Faisal, a parliamentary candidate, who was shot to death by an automatic M16 gun on 2 March 2014. Three members of the Aceh Political Party were shot to death by automatic gun as well, in Geulanggang Teungoh village, Aceh, on March 31. More than a year later, the police have failed to investigate and prosecute the perpetrators.

9. Extrajudicial killings are a serious problem in Indonesia. The ALRC draws the Human Rights Council's attention to the UN Human Rights Committee's recommendations to the Indonesian government in 2013, and requests that the Council urge Indonesia to promptly implement them:

"The State party should take concrete steps to prevent the excessive use of force by law enforcement officers by ensuring that they comply with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. It should also take appropriate measures to strengthen the National Police Commission to ensure that it can effectively deal with reported cases of alleged misconduct by law enforcement personnel. Furthermore, the State party should take practical steps to put an end to impunity for its security personnel regarding arbitrary and extrajudicial killings, and should take appropriate measures to protect the rights of political dissidents and human rights defenders. The State party should systematically and effectively investigate and prosecute cases of extrajudicial killings and, in the event of a conviction, punish those responsible, and provide adequate compensation to the victims' families."

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Human Rights Council
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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2015]

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GE.15-11412 (E)
1511412

Please recycle

Indonesia: Government unwilling to genuinely protect freedom of expression

1. Despite the existence of constitutional and other legal provisions, protection for the right to freedom of expression remains weak in Indonesia. This is largely due to the government's inconsistency in applying the law, as well as a lack of police regulations and policy on dealing with citizens expressing their right. At the same time, the government has also enacted some controversial regulations that can potentially be used to restrict freedom of expression: a) Law No. 7 of 2012 on Social Conflict Intervention, which allows local government to easily request the military to tackle public chaos, demonstrations, and labor strikes that can potentially harm social harmony and economic development; b) Intelligence Law No. 17 of 2011, which allows intelligence agencies to conduct wiretapping without effective and strong external oversight; c) Law No. 11 of 2008, on Electronic Information and Transactions, which has been used to restrict expression on social media.

2. According to the Commission for Disappearances and Victims of Violence (KontraS), a prominent Indonesian NGO, 162 cases of extreme restriction against the right to freedom of expression occurred between January and December 2014. One of the most common forms of such restriction is the forced dissolution of public discussions and movie screenings.

3. The Asian Legal Resource Centre (ALRC) would like to raise particular concerns regarding Law No. 11 of 2008, on Electronic Information and Transactions, which provides for criminal charges against citizens for offending others. The past three years have hence seen many cases of criminal charges against Internet users in Indonesia. The infamous 2012 defamation case against Alexander Aan in Padang, West Sumatera Province, was only the beginning, with Aan being arrested and prosecuted for questioning Prophet Muhammad on Facebook. More recently, in August 2014, Ms. Florence Sihombing faced criminal prosecution for stating on her private social network path, "Yogyakarta people poor, stupid, and uncultured." This was leaked to public social media including Facebook and Twitter, and Sihombing was subsequently reported to local police.

4. Another similar case is that of Mr. Muhammad Arsyad, who was arrested in October 2014 by police officers because his Facebook posts offended current President Joko Widodo. Although Arsyad was released due to public pressure and widespread media coverage, the criminal charges against him are a clear indicator that under President Widodo's administration, the right to freedom of expression remains restricted.

5. In its concluding observations on the initial report of Indonesia's compliance with the International Covenant on Civil and Political Rights on 21 August 2013, the UN Human Rights Committee stated that Indonesia should "consider revising its defamation law and, in particular, the Law on information and electronic transactions, to ensure that they are in compliance with article 19 of the Covenant." Additionally, violations against the right to freedom of expression and speech in Indonesia were one of the serious issues examined by the Human Rights Committee session on Indonesia in August 2013. Among the various recommendations made by the Committee to ensure the protection and fulfillment of the right to freedom of expression and speech, was that "the State party should take the necessary steps to ensure that any restrictions to the freedom of expression comply fully with the strict requirements of article 19, paragraph 3, of the Covenant, as further clarified in general comment No. 34."

6. The right to freedom of expression is also particularly violated for journalists and indigenous communities. KontraS has reported 72 cases of violence against journalists in 2013, such as murder, brutal attacks, and denial of access to information, while the Indonesian Journalist Alliance (AJI) documented 37 cases of violence against journalists between 2014 and 2015. Eleven of these 37 cases involve police officers. According to the AJI, the government has failed to prosecute the perpetrators.

7. Indigenous communities in Indonesia are also victims of the denial of freedom of expression and assembly, due to their peaceful protests against land confiscations. Details of such suppression of indigenous communities are provided in ALRC's submission on the right to freedom of assembly and association in Indonesia titled, "Right to freedom of assembly and association acknowledged, but not protected".

8. The province of Papua faces extreme restrictions on the right to freedom of expression. Between 2004 and 2014, human rights groups have documented 67 cases of Papuans charged with treason for their political expression. The punishment for treason is life imprisonment or a maximum term of 20 years. Most recently, five Papuans have been charged with treason on 14 April 2015 after meeting with the Minister of Defense, Retired General Ryamizard Ryacudu. In a separate submission to the Human Rights Council on the right to freedom of assembly, the ALRC has provided further cases of violations against Papuans. More recently, President Widodo granted amnesty to five Papuan prisoners detained since 2003; they have now been released.

9. Indonesia has no effective mechanism to provide redress for the violation or restriction of the right to freedom of expression. Although Law No. 13 of 2006, on Victims and Witness Protection, regulates remedies for victims, it does not acknowledge the right of victims implicated in fabricated cases, as found in many instances of freedom of expression violations. Furthermore, as the police themselves play a large role in violating citizens' right to freedom of expression, there is little room for obtaining remedies or justice. Indonesian NGOs like KontraS and Indonesia Legal Aid Foundation (YLBHI) have frequently reported such cases to the National Commission on Human Rights (Komnas HAM), to no avail.

10. Given the above situation regarding freedom of expression in Indonesia, the ALRC requests the Human Rights Council to take up the following with the Indonesian government:

a. Provisions relating to defamation should be repealed in various laws, such as the Indonesian Penal Code and Law No. 11 of 2008 on Electronic Information and Transactions;

b. The right to freedom of expression must be unequivocally recognized and protected, and all those violating the right must be held accountable regardless of rank, institution, and background;

c. Patterns of extreme restrictions on the right to freedom of expression in Papua and West Papua should be ended, and a willingness to peacefully and comprehensively solve problems there must be demonstrated.

United Nations A/HRC/29/NGO/41

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Human Rights Council
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Human rights situations that require the Council's attention

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GE.15-11409 (E)
1511409

Please

Indonesia: land grabbing and rights abuse occurs widely under 'economic development'

1. State party to the International Covenant on Economic, Social and Cultural Rights (IESCSR), Indonesia has a domestic law promulgating the Covenant as well as relevant provisions in its Constitution, particularly regarding ensuring an adequate standard of living for all. Nevertheless, widespread human rights violations are occurring in the area of land and natural resources. Not only are government policies detrimental to farmers, state officers are themselves involved in land grabbing and other rights abuses.

2. While Article 33 of the Indonesian Constitution provides that "Land, the waters, and the natural resources within shall be under the power of the state and shall be used to the greatest benefit of the people", the government's policy on access to land and natural resources is causing harm to the society and farmers. Land grabbing, denial of customary land rights of indigenous communities, and environmental damage due to the government's policy to provide land for large-scale commercial agriculture and extractive industries are all resulting in increasing landless farmers and natural resources conflicts. According to the Land Reform Commission, a national NGO documenting land conflict, between 2004 and 2013, 987 cases of land conflict occurred. In 2013, the number had increased to 369 cases, from the 198 documented in 2012. There was also a significant increase in the amount of land involved in conflict; from 318,248.89 hectares in 2012, the area expanded to 1,281,660.09 hectares in 2013.

3. Under the decentralization of governance (*otonomi daerah*), local governments have the authority to issue business licenses without approval from the local parliament or central government. According to national NGO Mining Advocacy Network (JATAM), the issuance of licenses has becoming a profitable business to finance local electoral campaigns, and land deals for business and mining areas generally take place before and during local elections. Local authorities issue mining permits on community or customary land, and security agencies force people to accept this on the pretext of economic development. The Regent elected in Bima Regency, West Nusa Tenggara Province in September 2011 for instance, issued a mining permit on the land belonging to local farmers.

4. The Master Plan for Acceleration and Expansion of Indonesia's Economic Development (MP3EI), launched in 2011, is a project with great potential for rights violations. Since 2011, the Indonesian government has issued 44 regulations in favor of providing land for investors, none of which prioritize protecting human rights. All 44 regulations are in fact being used to legitimize the government's confiscation of land from farmers and local community, as well as customary land from the indigenous people.

5. The expansion of the Merauke Integrated Food and Energy Estate (MIFEE), located in the Papuan province of Indonesia, is a current project within the MP3EI. Indonesian human rights groups, such as the Indonesian Forum for the Environment (WALHI) and JATAM have documented land grabbing conducted by MIFEE against indigenous Papuans. Similarly, a plantation company in Karawang Regency, West Java Province, occupied local farmers' lands without any consent. WALHI also documented that the plantation company and the local police were complicit in aggression towards the farmers protesting the occupation, including shooting the farmers with rubber bullets, kicking and beating them, and forcibly dispersing them.

6. The perpetrators of human rights violations in the area of mining and access to land largely consist of police officers, military personnel, civil service police units, multinational corporations, thugs, and private security guards. Police officers commit the most human rights violations in mining and land confiscations. The case of police officers in Rembang Regency, Central Java, brutally attacking and arresting farmers protesting the government's decision to issue a permit to a cement company on their land in 2014 is indicative.

7. The Asian Legal Resource Centre (ALRC) is aware that the Indonesian Military has a long history of being involved in business and in internal political affairs. In 2004, the Parliament promulgated Law No. 34 mandating the government to eradicate Military involvement in business activities, but it remains unclear how the law is being implemented.

Similarly, Presidential Decree No. 43 of 2009, concerning taking over of military business, echoes Law No. 34, but its implementation also remains unclear.

8. Activists defending land rights are victim to arbitrary arrest, detention, intimidation, and fabricated charges. In the extreme, they are also victims of assassination, as in the case of Mr. Indra Pelani, who was brutally killed by private security guards of the Wira Karya Sakti Company (PT WKS) in February 2015. Indra was a member of the Sekato Peasant Group and he was active in promoting and advocating land rights on behalf of local peasants in Jambi Province and against PT WKS, which is occupying thousands of hectares of peasant land.

9. In another case known to the ALRC, human rights defender Anwar Sadat, from a local environmental group, was brutally attacked and charged with criminal offence by the police officers of South Sumatera Province in 2013. Anwar was attacked due to his advocacy efforts defending land rights of local farmers. Similar cases also occurred in Bima Regency, West Nusa Tenggara Province, in 2011. The police shot local farmers and residents peacefully protesting land confiscations and illegal mining in the area of Sape Port. Three people died, while a dozen more were seriously injured.

10. The above information clearly indicates that the Indonesian government must take effective steps to prevent land rights violations, as well as ensure that remedies are available to those suffering from violations. Towards this end, the Human Rights Council should urge the government to:

a. Protect the right of indigenous communities and local farmers to access their land and benefit from natural resources. Part of such protection is ensuring that all development investors and companies comply with human rights laws and standards;

b. Ensure that peaceful demonstrations against land confiscations, illegal mining, and other rights abuses are not subject to criminal charges and excessive use of force. Those involved in such force and wrongdoing should be investigated and punished accordingly. Moreover, Law No. 32 of 2009 on Environmental Protection and Management, which states that all those advocating environmental rights must be protected and cannot be prosecuted, should be implemented immediately;

c. Provide adequate and effective remedy and compensation for communities and individuals who suffered damages or lost their properties and belongings.

d. Effectively implement Law No. 34 of 2004 to reduce the involvement of security actors in business, and prosecute all those found to be violating the law.

e. Review the implementation of MP3EI, which is causing significant human rights abuses.

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Human rights situations that require the Council's attention

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1508939

Please recycle

Indonesia: Right to freedom of assembly and association acknowledged, but not protected

1. Despite Indonesia's Law No. 9 of 1998 guaranteeing freedom of expression in public areas, the protection of the right to freedom of assembly and association in the country remains fragile. In the last three years there have been frequent brutal attacks and forced dispersing of peaceful demonstrations, film screenings, and public discussions initiated by labour, land, and environmental activists, as well as prayer meetings organized by religious groups. Citizens and activists meeting to express their political opinion are also subjected to attacks, particularly in the province of Papua.

2. According to national NGOs, Indonesian Forum for the Environment (WALHI), and the Commission for Disappearances and Victims of Violence (KontraS), forced dissolution and fabricated cases are the usual means to intimidate public protests organized by local peasant and indigenous groups fighting for land and environment rights. This was seen in the Karawang Regency, West Java Province in 2014, when some 1,200 local peasants joined peaceful protests against land confiscation by the private company PT Agung Podomoro, allegedly supported by the Regent of Karawang and local police. To disperse the protest, the police shot the farmers with rubber bullets, seriously injuring one farmer while seven others were victims of brutal kicking and beating.

3. Similar circumstances were documented by human rights groups in relation to labour activists. One such case occurred with hundreds of labourers conducting peaceful demonstrations in Cikarang Regency, West Java Province, on 30 October 2013. Suddenly, they were attacked by thugs allegedly from Pemuda Pancasila (Pancasila Youth Group), a paramilitary organisation. According to the Confederation of Indonesian Workers Union (KSPSI), the thugs gathered around the Military Sub-District office before they brutally attacked and stabbed the labourers. Eleven workers were seriously injured while 17 were hospitalized. Two others were stabbed on their left hip, while five were jabbed in the back.

4. The right to freedom of association and assembly of religious and minority groups in Indonesia is also greatly restricted and violated, with many groups and individuals facing murder, forced eviction, dispersion, and the sealing of their places of worship during the past three years. The congregation of the Yasmin Church in Bogor Regency, West Java for instance, was not allowed to enter the Church, and when they conducted their worship outside, thugs and anti-tolerant groups forcibly dispersed them. Violence against the Shiite community in 2012 in Sampang Regency, East Java, resulted in the death of two men, Mochamad Kosim, 50, and his brother Tohir, 46, due to machete wounds. At least four other Shiites were injured during the attack. Ahmadiyya congregants were forcibly dispersed in Yogyakarta Province and Makassar, South Sulawesi Province in 2013. The Filadelfia Church in Bekasi Regency was sealed off, as were 16 places of worship in Singkil, Aceh.

5. Frequent dispersals of public discussions and movie screenings have occurred in 2015. On 22 February 2015, the association of victims of the 1965 massacre in Padang, West Sumatra Province, were intimidated and forcibly dispersed while meeting with KontraS and other human rights organizations. They were accused of promoting communist ideology. The Islamic Defender Front (FPI), an extremist, anti-tolerant organization meanwhile, continues to conduct forced dispersals. In Jember Regency, East Java Province, for instance, the FPI forcibly stopped screenings of the movie "Senyap" ("Look of Silence"). According to the FPI, the movie has communist ideological content, and the screenings were therefore stopped.

6. People in Papua and West Papua continue to face extreme restrictions on exercising their civil and political rights. The police announcement that public demonstrations cannot be held by organizations not registered with the office of National and Political Unity, and those associated with separatist groups, has caused considerable rights abuse. In accordance with this, on 4 April 2014 the police forcibly dispersed a peaceful student demonstration at the University of Cendrawasih in Jayapura, Papua. The police argued that the student organization is not registered, as required by Law No. 8 of 1985 on Mass Organizations. Two students were arrested and allegedly tortured during the dispersal.

7. Twelve students distributing invitations to a peaceful demonstration in Manokwari, West Papua, were arrested by local police on 30 April 2015. The students were members of the West Papua National Committee (KNPB), a civil

society organisation. The following day, the police arrested 200 protesters on their way to attend a demonstration near the office of the Papua Customary Council (Dewan Adat Papua) in Manokwari. Also on 1 May 2015, the police and military violently dispersed peaceful demonstrators in Kaimana City, while arresting two KNPB activists. Fifteen KNPB activists were also arrested by the police in Papua, together with one member of the Regional Peoples Parliament (RPD) in Merauke regency. In Jayapura City, police arrested 30 KNPB activists as they were heading to the local parliament office. According to the police, all of these persons were arrested because they did not have a permit to hold demonstrations.

8. In light of the above, the Asian Legal Resource Centre (ALRC) recommends that the Human Rights Council urge the Indonesian government to:

a. Ensure that the right to freedom of assembly and association is protected, as guaranteed by the Indonesian Constitution and the International Covenant on Civil and Political Rights adopted by the government. In particular, the government must end the practice of criminal charges brought against civilians exercising their right to assemble and associate;
b. Take effective steps to prosecute and punish all those who violate and restrict the right to freedom of assembly and association;
c. Review and repeal all legislation that restricts or denies the right to freedom of assembly and association.

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1509025

Please recycle

Indonesia: Weak judicial system and insufficient legal aid allows for unfair trial

1. A basic requirement in ensuring justice, fair trial is largely dependent on the state of the criminal justice system in the country, particularly the effectiveness of judges and lawyers. The Asian Legal Resource Centre (ALRC) wishes to draw the attention of the UN Human Rights Council to the fact that judicial independence in Indonesia suffers. Indonesia's Judicial Commission received as many as 1,781 complaints from the public about unfair trial between January and December 2014. In addition, the Judicial Commission received 2,003 written complaints of violations of the judicial code of conduct.

2. Following such public complaints, a total of 152 judges were summoned for questioning by the Judicial Commission in 2014, of which 143 judges complied. Based upon its examination, the Judicial Commission recommended 131 judges to be examined by the Supreme Court. Of these, 96 judges received written warnings from the Supreme Court, while 22 judges were given light punishment: suspension of salary for one year, decreasing salary for maximum one year, suspension of rank promotions for maximum one year, suspension of official functions for minimum three months and maximum six months. Thirteen judges received heavier punishment: suspension of official functions and salary for one year. When the Supreme Court deems it necessary, a panel of honorary judges tries judges. Between 2009 and 2014, however, only 37 judges have been thus tried.

3. It is the view of the ALRC that the Judicial Commission's mandate should be strengthened so it can be involved in the Supreme Court examination process, rather than merely issue recommendations. Law No. 18 of 2011 on the Judicial Commission should be amended to this effect. Furthermore, the Judicial Commission and the Supreme Court need to have a clear understanding to ensure that recommendations from the Judicial Commission are followed up with transparency and accountability.

4. The ALRC would also like to draw the Human Rights Council's attention to grave problems in the area of corruption cases, human rights cases, and the trial of prominent human rights defender, Munir Said Thalib. Indonesia is facing a serious problem concerning the independence of judges within its anti corruption court. The controversial verdict decided by the South Jakarta District Court Judge Sarpin Rizaldi for instance, in a pretrial hearing between the Corruption Eradication Commission (KPK) and General Budi Gunawan, appointed candidate of the Chief of National Police, is a clear example of this. Judge Sarpin stated, "the naming of the applicant (Budi Gunawan) [*as a suspect of corruption*] by the defendant (KPK) is illegitimate and has no legal basis." Indonesia's criminal law, however, does not prevent authorities from naming suspects in pretrial hearings. Due to this verdict, the KPK cannot proceed with its investigation on Budi Gunawan.

5. The Indonesian Corruption Watch (ICW), a national NGO, reported that in 2014 only four corruption suspects were sentenced with heavy punishment. Of the total 265 suspects, ICW emphasized that 241 were given light sentences of one to four years of imprisonment, while 20 other suspects were released without any clear reason.

6. During his election and inauguration, President Joko Widodo pledged that addressing human rights violations would be a priority for his government. In particular, he emphasized putting an end to impunity and processing past human rights cases, such as the May 1998 uprising, Tanjung Priok killings in 1984, and the 1965 tragedy. In accordance with Indonesian law, human rights cases are to be taken up in specific human rights courts. To realize his pledge, President Widodo will have to address the problems with the country's human rights court, such as the lack of knowledgeable and experienced judges and prosecutors, and the lack of oversight that allows defense lawyers to bribe witnesses and victims. Tanjung Priok's human rights court, from 2003 to 2006, clearly revealed monetary transactions between lawyers and witnesses. The lawyers bribed witnesses and victims to change their testimony in court, with no suspicion or questioning from the judges.

7. President Widodo's pledge towards human rights and ending impunity should also look into the case of human rights defender Munir Said Thalib. The trial for his assassination, involving former military officials and intelligence agencies, was clearly hampered by the lack of government support. No guarantees of protection were provided for the judges, and enough effort was not made to ensure that all relevant evidence from state institutions could be presented in court. The failure of the court to bring in key witness Mr. Budi Santoso in the prosecution of former Deputy of National Intelligence Agency, Mr. Muchdi PR, resulted in the release of Muchdi. Budi was an officer at the Indonesian Embassy in Pakistan; cooperation between the court and the government could have brought him to Indonesia for testimony.

8. The ALRC would also like to raise concerns regarding the case of Mr. Etis Wenda, an indigenous Papuan, detained for his alleged involvement in separatist activities. When he was visited in Abepura prison recently, he stated that throughout the process of his arrest, detention, prosecution, and his finally being sentenced for life, he did not have access to a lawyer. Moreover, being unable to read, the law enforcement agencies did not provide him any assistance to review the Police Interrogation Report. This is a flagrant violation of the right to fair trial and justice, and it is also indicative of the treatment meted out to Papuans and other minorities in the country.

9. Another violation of the right to have a lawyer is present in the books in the form of Article 56 of the Indonesian Law of Criminal Procedure, which only obligates the government to provide lawyers for those liable to imprisonment of five years or more. According to national NGO KontraS, the absence of lawyers in the police examination process leads to torture and other police abuse. KontraS reported 34 cases of police torture between June 2013 and May 2014, which aimed to obtain confessions from alleged suspects during the examination process.

10. Under Law No. 16 of 2011, on legal aid, the government granted a 50 billion Indonesian rupiah budget for legal aid in 2015. This amount however, is not enough to cover more than 200 legal aid providers running the program. Furthermore, the majority of legal aid providers work in the capital cities of provinces, with only a few practicing in remote areas. Not only is the legal aid program thus failing to provide legal aid for poor people in remote areas, but it also does not provide legal aid for vulnerable groups such as women and children, people with disability, and indigenous people, unless they fall under the category of "economically poor".

11. In view of the above, the ALRC requests the Human Rights Council to urge the Indonesian government to improve its judicial and legal aid system. In particular, the government should:

a. Comprehensively review the judicial system and strengthen oversight at every stage of investigation;
b. Amend Law No. 18 of 2011 to strengthen the mandate of the Judicial Commission, and urge the Supreme Court to examine Judicial Commission recommendations with the utmost gravity and consideration;
c. Increase budgetary allocations for the Judiciary, to allow for better training and compensation of judges, which will refine their skill and lower chances for corruption;
d. Amend Law No. 16 of 2011 to provide legal aid not only for economically disadvantaged persons, but also vulnerable groups such as women, minorities, and others seeking justice.

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Please recycle

Myanmar: Extrajudicial killings continue with impunity

1. The Asian Legal Resource Centre (ALRC) would like to bring the realities of extrajudicial killings in Myanmar to the attention of the United Nations Human Rights Council. The government's claim that the State is in a democratic reform process is belied by the prevailing reality of extrajudicial killings, abuse of power, and impunity in Myanmar.

2. The Myanmar semi-civilian government, which came to power after decades of Military rule, has failed to prosecute extrajudicial killers who committed numerous such crimes under the umbrella of the Military; and it continues to protect perpetrators of more recent extrajudicial killings. The military in Myanmar has long enjoyed impunity for offences committed against civilians, and despite recent political changes, prosecutions of errant soldiers are extremely rare.

3. The ALRC, along with its sister organization, the Asian Human Rights Commission, has documented numerous cases where the Myanmar police have tortured civilians to death while in custody. Mostly, there is complete impunity. On the few occasions such acts are "punished", the cases are handled under the Myanmar Police Force Maintenance of Discipline Law and not under criminal law. Furthermore, Executive intervention at all levels of the Judiciary has made court proceedings a time-consuming masquerade that invariably delivers injustice. The ALRC would like to share with Council the following recent cases of extrajudicial killings, abuse of power, and impunity.

4. On 22 December 2014, the police opened fire on protesters in relation to land confiscated for the Letpadaung Copper Mine Project. A female farmer, Daw Khin Win, was shot to death during the operation. When the companies started fencing paddy fields for the project, local farmers protested against the action of fencing their farmland. Most farmers had not accepted the compensation offered by China's Wanbao Mining and the Burmese military-owned company Union of Myanmar Economic Holding Ltd. (UMEHL). No proper system for negotiation with the farmers led to protests, and the police resorted to force, cracking down on the farmers and firing on them using live bullets. Daw Khin Win died on spot, while stray bullets injured others. After an autopsy, the family of the deceased lodged a murder case against the shooters. The police stated that the case was under a death inquest so no further action could be taken. On 9 April 2015, Sarlingyi Township Court gave their judgment on the case stating that the death was not natural. In May 2015, the Sarlingyi Township Police station opened a murder case, having earlier refused the request of the victim's family to open a case.

5. If history is any indicator, Daw Khin Win's family's fight for justice is an uphill one. The impunity of the authorities in relation to the Letpadaung Copper Mine Project has been longstanding. There have been numbers of protests, and use of excessive force by the State in response. A particularly violent crackdown on the peaceful protesters occurred on 29 November 2012. Early on that morning, police attacked encamped protesters, primarily monks, by firing white phosphorous on them, causing extensive burns to many. The Minister of Home affairs, who ordered the attack, has still not been held accountable, and no justice, or even compensation, has resulted.

6. On 19 January 2015, two ethnic Kachin volunteer teachers were tortured, sexually assaulted, and murdered, allegedly by soldiers of the Myanmar Army. The deceased had volunteered to work for the Kachin Baptist Church. They had been serving in a village near the conflict zone in the northern Shan state, where the Myanmar Army and Kachin rebel groups have been battling. Invariably, whenever conflict would spark, the Burmese Army would pass through the village where the teachers were serving. A few days before the women were killed, an Army battalion arrived and camped 100 metres from the area where the women were attacked and killed. To date, the murderers remain at large. No autopsy report or information related to any further investigation has been provided to the families of the victims.

7. A similar case took place in 2013. Three men attacked and robbed a young couple out for an evening stroll on the riverbank in Pyay. They murdered the man. With the help of local people, two out of the three were arrested within a few hours. Later, police found out the three men are soldiers from a nearby army base. Following the incident, the Army moved the accused back to base. A court martial found the men guilty of a minor offence but not of murder. They were subjected to military discipline for their minor offence; this foreclosed the matter. And, that has been the end of the quest of justice for the victims' families. According to law, once the army has completed its military judicial proceedings, where soldiers have committed a crime against civilians, they must be transferred to civilian court for

continued proceedings. However, military personnel, no matter how serious the crime, continue to be shielded from civilian courts.

8. Freelance journalist Aung Kyaw Naing (aka Par Gyi) was killed while in custody of the Burmese Army and his body was hastily buried before the story broke in the press. When his wife inquired about her husband on 19 October 2014, the Army said he had been arrested on 30 September 2014. However, the Captain of the Light Infantry Battalion said that he had no idea of Par Gyi's whereabouts. Later, an unofficial statement was released by the Army, dated 23 October 2014, which states that Par Gyi tried to escape on 4 October 2014 by grabbing a rifle from one of the guards, and that he was then shot to death and his body was buried south of Shwe War Chaung Village, less than a kilometer away from where he was killed.

9. According to the law, when a citizen dies in a military exclusion zone, the military must file a report with the police with details, among other things, of the identity of the victim. Available facts make it clear that proper procedures were not followed. After stalling, eventually, the police decided that an investigation would be appropriate, but the Army refused to turn over the body to the investigators. However, the statement admitting that Par Gyi had been shot to death created pressure. Subsequently, the Myanmar National Human Rights Commission (MNHRC) formed an investigation team, and exhumation of the body commenced on the 5 November 2014. According to Par Gyi's wife and her lawyers, at least one medical doctor who examined the body has acknowledged verbally that the cause of death was not as recorded. Par Gyi appears to have been killed by a pistol shot from under his jaw, rather than by rifle shots. In conflict areas of Burma, civilians face such violence and impunity in routine. People are labeled as members of ethnic rebel groups, arrested by the Burmese Army, and then disappeared or murdered.

10. On 2 December 2014, the MNHRC released an inquiry report, recommending that Par Gyi's case be brought before a civilian court. However, while the death inquest in the civilian court is ongoing, more than five months after the incident, a court martial has acquitted the perpetrators. Furthermore, as an MNHRC statement dated 8 May 2015 has revealed, the court martial proceedings states that the soldiers responsible for killing Par Gyi were in active service, which makes the case fall under Section 72 of the Defence Services Act, and therefore under military jurisdiction. This showcases how the Myanmar Military has long been interpreting the field of active service in a wide manner to prevent civilian courts from trying soldiers. Par Gyi was picked up, brought the Army camp, and extrajudicially executed, and despite Myanmar apparently taking a turn towards democracy, impunity for such crimes prevails.

11. People in the Myanmar and those abroad are looking to such cases involving crimes committed by state officers for evidence of a change in the systemic conditions of impunity. According to the 2008 Constitution of Myanmar, civilians have the right to life and the right to remedy. However, so far, the government has failed to uphold the rule of law, and ensure equality before law for state officers that have committed crimes such as extrajudicial killings.

12. The ALRC calls upon the Human Rights Council and the Special Procedures of the High Commissioner to pursue lines of open communication and creative action. The State must see to it that the subject of extrajudicial executions and impunity for such crimes is seriously and extensively explored, as one part of addressing the massive incidence of human rights abuses that continue with impunity in Myanmar.

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Please recycle

India: extrajudicial executions and torture are defining characters of India's security establishment

1. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions, after his visit to India from 19 to 30 March 2012 has filed a report to the 23rd Session of the Human Rights Council held in 2013. To the observations made by the Rapporteur in his report, the Government of India has filed comments on 27 May 2013. The Asian Legal Resource Centre (ALRC) supports the report made by the Rapporteur, particularly concerning the following subjects, to which the Government of India has taken objections or has sought further clarifications from the Rapporteur.

2. (a) Allegation letters received by the Government of India from the Rapporteur: Organisations like the ALRC have sent detailed case reports to the Rapporteur, of cases that fall under the Rapporteur's mandate. The ALRC has also communicated the same to the Government of India, to its responsible offices in New Delhi, and at the state capitals from where these cases are reported.

3. It is the responsibility of the state party to enquire into these cases, and to provide for remedies. The fact is that legal remedies for human rights abuses in India are a distant possibility. The ALRC has arrived at this conclusion with its experience of having worked and analysed the capacity of India's justice process to be able to provide effective and timely legal remedies. The legal system in India is clogged with enormous delays that often extend to decades, thereby rendering seeking a remedy to human rights abuses through India's legal process a wasteful exercise.

4. Besides, in cases of extrajudicial execution, more commonly referred to as "encountered killings" in India, the nucleus of a legal remedy, as in any other criminal investigation, is located in the willingness and the capacity of the law enforcement agency to undertake impartial, prompt, and scientific crime investigation. The ALRC is of the opinion that the law enforcement agencies in India lack the capacity and willingness to undertake such investigations.

5. Between January and May 2015, the ALRC has reported 25 cases of extrajudicial executions from the states of Andhra Pradesh and Telangana. The state police in both states were not even willing to undertake autopsies and file reports to the National Human Rights Commission in India on the two occasions the Commission directed them to do so. This reiterates ALRC's observations that human rights violations committed by law enforcement agencies in India are not an aberration against which corrective actions can be taken, but are, on the contrary, what is expected of law enforcement agencies as their duty in India. Hard legislations like the Armed Forces (Special Powers) Act, 1958, are statutory legitimisation of archaic law and order enforcement policy. Such laws negate the very principle of fair trial, and the concept of democracy.

6. (b) On arbitrary and unlawful arrest and deaths in custodies: Custodial torture and deaths arising out of custodial torture is not a rare occurrence in India. Torture is the most commonly used tool by the police. Contrary to popular perception, torture is not often used to extract a confession from the suspect, but as a tool for social control in India.

7. On the other hand, crime investigations begin and end with confessions obtained through torture. In such a setting, modern crime investigation has no place in Indian policing. Law enforcement in India therefore is not a process that follows the normative frameworks of fair trial but an activity that state agencies engage in to rule by fear.

8. The ALRC has not come across more than 16 cases during the past 10 years where police officers or other law enforcement officers were investigated, prosecuted, and punished for custodial deaths. Such low number of convictions is not because torture or custodial deaths do not happen in state custody. It indicates the extent of impunity that law enforcement agencies enjoy in India for acts of crime – including extrajudicial killings – in which they engage. India does not have a policing policy or a national police commission that could initiate or augment a reform policy that could lead to ending the practice of torture or extrajudicial executions.

9. (c) On gallantry awards to security officers after encounters: It continues to be government policy to award law enforcement officers who engage in extrajudicial executions in India. So much so, there are police officers in most Indian states, particularly in states like Karnataka, Tamil Nadu, Andhra Pradesh, Telangana, Maharashtra, Madhya Pradesh, Rajasthan, Gujarat, Uttar Pradesh, Punjab and Haryana, Orissa, West Bengal, Manipur, Tripura, Nagaland, and Assam, where officers who regularly engage in extrajudicial executions have received encouragement from the government and awards and promotions. The media celebrate these officers by referring to them as "encounter specialists".

10. If the Government of India's claims, that its judiciary is independent, responsive, and effective enough, and that the government respects its judiciary's mandate, is true, extrajudicial executions would not have recurred in India despite the Supreme Court of India's observations that "executive elimination is not a process that is allowed under the frameworks of the constitution" in India.

11. In the above context, the ALRC requests the Rapporteur to work with the Government of India to end crimes committed by law enforcement agencies in the country, including acts of extrajudicial execution, with an understanding that the manner in which law enforcement agencies in India behave is not an aberration in the character of this institution; it is this behaviour that is is expected of the institution. Law enforcement agencies in India enjoy disproportionate impunity by comparison to the risk an officer has to face at work.

12. Keeping Indian law enforcement agencies the way they are, is, in fact, India's policing policy. This is a means by which persons occupying seats of power in policy making entities in India, like elected representatives in the state legislative assemblies, and at the national Parliament, can continue contesting elections despite having crimes of serious nature, including that of corruption, pending investigation against them for decades. An estimated 56% of the elected representatives in India fall into this category.

13. The ALRC therefore encourages the Rapporteur to engage with the Government of India, and help the government thoroughly reform its criminal justice process, which, at the moment, is incapable of adhering to principles of the rule of law, democracy, and fair trial.

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Please recycle

Nepal: international community must immediately help internally displaced people

1. The Asian Legal Resource Centre (ALRC) draws the attention of the Human Rights Council to the worsening condition of internally displaced persons in Nepal after the massive earthquake that hit the country on 25 April 2015. This earthquake, the biggest in decades, has killed thousands of people, has damaged property and heritage, and has left millions displaced, affected around 8.1 million people in all.

2. The impact of the disaster in Nepal, when the nation was just about coming to terms with the massive internal displacement witnessed in the wake of the decade long civil war, has washed off the gains made in rehabilitating those displaced by the war. The country witnessed large-scale displacement during the civil war, with numbers estimated to be anywhere between 30,000 to 150,000 people. There were serious problems in identifying the actual number of those displaced due to several reasons, including inaccessibility of many far flung areas of the country, as well as the underground nature of the Maoist insurgency that hindered attempts to ascertain the numbers of those displaced in areas under Maoist control.

3. The ALRC also wants to draw the attention of the Human Rights Council to the fact that Nepal identifies and acknowledges the problem, as evidenced by its 2007 national policy on Internally Displaced Persons. The policy defines IDP as "a person or family who is displaced internally by compulsion owing to creation of such a situation where it is not possible to live in one's home or place of habitual residence due mainly to armed conflict or situation of violence or the conditions of gross violation of human rights". The ALRC requests the Council to recognize those internally displaced because of the disaster as IDPs and ensure all help to them. The ALRC further urges upon the Council to ask the Government of Nepal to build a database of all IDPs at the level of local government so as to ensure their relief and rehabilitation.

4. Though the definition leaves out those displaced because of natural disasters, the government of Nepal has acknowledged in last week of April that the earthquake had left more than 454,769 persons internally displaced, and expressed fears that the number could go up significantly. Apart from these people, even the most conservative estimates put the number of those in need of immediate food assistance at 1.4 million (as per the United Nations); others peg the same much higher, at around 3.5 million.

5. The availability of clean and potable drinking water is also a major problem with the earthquake having destroyed countless *dharas* (streams that bring water from mountains to communities living in hilly areas), often the only source of water in Nepal for communities living in the mountainous regions of Nepal. Furthermore, the impact of the earthquake on roads has exposed many of the chronic food short regions of Nepal like Karnali, which are dependent on food assistance. The ALRC urges upon the Council to ask the Government of Nepal to take special care of such areas, which suffer from a lack of clean drinking water and with food insecurity and ensure that the supplies are immediate and adequate, otherwise it will lead to greater illness and displacement of people and communities.

6. The Nepal Government, on its part, has been found to be wanting on various counts, including a near complete absence of presence outside Kathmandu valley. Nepal has not seen local body elections for decades and this has resulted in a serious administrative crisis on the ground. As only the bureaucrats govern most of these areas, with no checks and balances from elected representatives, allegations of corruption and incompetence abound. The earthquake has brought all these issues to the fore. The ALRC requests the Council to urge the Government of Nepal to revive local governance as early as possible, conduct local elections, and put an effective system that can deliver to the people in place.

7. The government has also been found to ill prepared to handle such an eventuality by its failure to do away with bureaucratic bottlenecks that have left a lot of relief material stranded with customs officials. The ALRC requests the Council to urge the Government of Nepal to remove peacetime customs mechanisms and facilitate the organizations and individuals bringing relief material to those areas still inaccessible to the government.

8. The enormity of the disaster, presents an opportunity as well, as it has led to significant reverse migration. Though the numbers have just started to trickle in, the patterns are clearly visible. A lot of people have started returning to the countryside, and the government must tap on this to rebuild the interiors. The ALRC requests the Council to urge upon

the Government of Nepal to take up measures aimed at creating livelihood opportunities in the villages with a proper vigilance mechanism, and this itself can only be better achieved with the help of robust local governance.

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Human rights situations that require the Council's attention

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

Nepal: need for local elections, exposed by the earthquake

1. The Asian Legal Resource Centre (ALRC) joins the world in grieving the loss of human lives, property, and cultural history in Nepal during and after the massive earthquake that struck at 11:50 a.m. on 25 April 2015. The 7.9 magnitude earthquake with an epicenter 80 km east of Pokhara has devastated the country, resulting in at least 8,604 human casualties, injuries to at least 17,838, displacement of millions, and widespread damage across the Himalayan nation. The response in the face of the crisis has, however, been slow and inadequate, and, despite the solidarity shown by the international community, the requisite relief still has not reached those that need it most.

2. The ALRC would like to bring to the attention of the UN Human Rights Council one of the open secrets behind the Nepal government failing to respond to the needs of the citizens in this time of crisis. All the political groups vying for power in the prolonged constitutional stalemate in Kathmandu have a hand in centralizing power and dismantling local government across Nepal. Local elections have not been held in the Himalayan nation in decades. This has centralised authority and increased inequality in Nepal. And, it has created a vacuum, exposed most devastatingly by the earthquake.

3. The missing framework of local government has worsened the situation in rural settlements devastated by the earthquake. Food, water, and medical resources are scarce. The next few months will be a struggle: infrastructure for food, water, and shelter stand compromised as the rainy season begins.

4. With monsoon fast approaching, the risk of contaminated water beginning to circulate is real; the result will be diseases like cholera and dysentery. Still fearing aftershocks people have taken refuge in open areas; the following months are going to be the most strenuous for authorities in Nepal. And, without local government to assist with the process, it will be difficult for the centralized bureaucracy to respond to local needs.

5. The truth of the countryside, even today, a month after the quake, remains largely unknown. It appears that in several districts where millions live, most villages have been destroyed. Heavy destruction has been reported from Dolakha, Sindhupalchok, and Ramechhap, and more than 30 districts are affected. Thousands of houses are damaged in the districts, requiring more tents and food supplies for the people.

6. The central government is clearly struggling to reach into villages in rural areas to provide assistance. Lack of localized resources and manpower has been slowing the process. If robust local and regional governance systems had existed when the earthquake hit, the recovery of the nation would have been easier. Then relief efforts would not have suffered from the unplanned approach on display today.

7. The breakdown of sanitation services across Nepal is critical; the situation is direr for those in remote areas. Bodies still buried under the rubble are another source of disease for survivors. The bodies still buried under the rubble increase the likelihood of illnesses spreading. If bodies are not cleared soon, Nepal is going to face a grave health crisis and this will be more dangerous than the earthquake that hit the country. It is imperative that dead and decaying bodies lying in villages and the corridors of homes in villages are taken care of at the earliest.

8. Centralized misgovernance in the past two decades has marked development and resource allocation at the local level with inconsistency and unaccountability. And, today, the lack of elected village authorities means there is little co-ordination on the ground for distribution of relief materials. The absence of elected local representatives, for instance, has hampered the crucial task of identifying earthquake victims. This has complicated distribution to the point that no assistance is arriving where it is needed most.

9. There have been bureaucratic hurdles at the central level. The government has not yet been able to formulate working procedures for distribution and for identifying recipients. Second, there have been problems at the local level. The district administrations have not been able to collect adequate information regarding the houses that have been destroyed or damaged. This is essential to identify needy families. One of the reasons why data collection has been difficult is because of the absence of elected local authorities. Many Village Development Committees even lack secretaries to do the required work.

10. It is a reality that most villagers in need have not received relief. The State, which did not reach out much to its villages in the past, cannot be expected to create instant mechanisms and pave the way to reach the villages overnight and that too without a responsive local government. Had the State laid the foundations in the form of infrastructure and roads, in the emergency mechanisms, and elected local governments, a proactive approach could have been taken to provide assistance and better manage assistance and relief distribution.

11. There is an urgent need to reach out to people not connected to highways and roads. Such people should not be discriminated against. The highway-centric relief activities need to be restructured and redirected to remote regions. This, of course, is not to imply that people living close to highways should not benefit from relief activities. However, Nepal needs a broad-based approach to relief work, in order to reach out to the most needy and vulnerable. Children, sick, elderly, women, and vulnerable groups like Dalit and Madhesi should get priority.

12. At a time of unprecedented human tragedy, there is a need for politicians to arise and regain their lost credibility through true and honest service to the nation. If there is adequate political will, it can be done without delay, even within a day. The aim of the government should be to reach out to rural areas with supplies as soon as possible.

13. The ALRC requests the Council to remind the government of Nepal that it bears the primary responsibility for the organisation of search and rescue and for relief and reconstruction. The government of Nepal should conduct local elections and elect local representatives in order to decentralize the relief and reconstruction efforts in Nepal. The international community should stand hand in hand with the Nepali government to assist Nepal to come out of this disaster. Nepal and Nepalese people need support during this hour of crisis.